

***Towards a Democratic Legislation
Supporting the Independence of Non
Governmental Organizations (NGOs)***

A Legal Analysis and Field Study

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*CAIRO INSTITUTE
FOR HUMAN RIGHTS STUDIES*

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CAIRO INSTITUTE FOR HUMAN RIGHTS STUDIES

The Cairo Institute for Human Rights Studies (CIHRS) is an independent regional non-governmental organization founded in 1994. It aims at promoting respect for the principles of Human Rights and democracy, analyzing the difficulties facing the application of International Human Rights Law and disseminating Human Rights Culture in the Arab Region as well as engaging in dialogue between cultures in respect to the various International Human Rights treaties and Declarations. CIHRS seeks to attain this objective through the developing, proposing and promoting policies, legislations and Constitutional amendments. CIHRS works on Human Rights advocacy in national, regional and international Human Rights mechanisms, research and Human Rights education -both for youth and ongoing professional development for Human Rights Defenders. CIHRS is a major publisher of information, a magazine, an academic quarterly, and scores of books concerning Human Rights.

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Introduction

The goal of this study is to identify the problems that civil associations and non-governmental organizations (NGOs) face under the current Law on Associations no. 84 of 2002, which reinstated law no. 32 of 1964 with rights and powers that lead to all types of governmental control and supervision over NGOs.

The significance of the study becomes clear in light of the current moves by the government to amend the present law, something that will probably result in imposing additional restrictions on NGOs. In particular, the official moves to amend the law come at a time that is witnessing extensive legislative attacks on liberties, and increasing tendency to oppress the rights of expression and association and other forms of political and social mobility. It is worth noting that the deliberations regarding amending the law came simultaneously as the

closing down of two human rights organizations for the first time since the establishment of human rights organizations.

Moreover, this study stems from a conviction that any attempt to free NGOs will fail if it relies on the text of the current law. Instead, the law should be entirely abolished. In accordance with this view, the Cairo Institute for Human Rights Studies has called for the presentation of an alternative draft law that conforms to international standards for the protection of the right of association, and respects the general principles that are increasingly being adopted by many NGOs as a means to guarantee their independence.

Based on the foregoing, the present study is divided into five chapters and combines legal analysis and field investigations to identify the problems in the enforcement of the law. The first chapter deals with the legislations concerning NGOs, in light of the constitutional guarantees protecting freedom of association. The second chapter contains a comparative study of the extent to which the Egyptian law conforms to international standards for the protection of the freedom of association, and where it stands among similar Arab legislations concerning the right to form associations. The third chapter is a field study of the most

significant problems facing NGOs based on actual implementations of the law. This chapter is based on interviews conducted with civil associations in seven governorates as well as Greater Cairo, in addition to a review of the administrative court decisions related to the enforcement of the law. The fourth chapter deals with the attempts by the government to amend the law and its possible consequences. The fifth and final chapter concerns the proposal of an alternative draft law, aimed at achieving independent civil society and NGOs, free from all governmental forms of control, and is based on the international standards that protect the right to independently establish NGOs.

We hope that the publication of this study will help facilitate a social dialogue that will reinforce and support efforts directed towards liberating civil society of all the restrictions that hinders it.

Chapter One

Legislations Related to NGOs in Light of Constitutional Guarantees of the Freedom of Association

The individual right to form independent organizations (either parties, associations, syndicates, cooperatives, unions or networks) gains its legitimacy from its being one of the natural human rights, since the right to assembly is a crucial condition of living in a human community. Through groups, humans combine their efforts to improve their lives and solve the problems, big or small, that stand in the way of their development and satisfaction of their demands.

In addition, the freedom of association is closely connected to the fundamental human right to form, express and defend opinions. The different forms of associations constitute channels through which the group expresses its ideas, plans, cooperates among its members or with members of similar groups.

The general rule is that a necessity for the development and growth of NGOs is a civil society with associations, civil institutions, NGOs, networks and unions that are entitled to a right to exist, take initiative, be creative and organize independently from the State. Civil society movement has become active, and kept a wide scope of freedom and independence from the State's grip, especially in the period when "civil law" constituted the legislative framework that regulated and supported action by civil associations.

Nevertheless, during Nasser's rule, NGOs, like other forms of organization by the civil and political society, fell under the absolute control of the State. This era was characterized by the vision that civil institutions are the extension to the State's organs and the channels for its policies. Therefore, legislative actions during this era tended to consider all popular initiatives to associations and assemblies as incompetent, and therefore ought to be put under full administrative custody and supervision. This view was materialized specifically in law no 32 of 1964 on Civil Associations.

In spite of four decades during which international, regional and local developments were pushing for achieving a real break with the idea of a State custody over civil society

institutions, particularly civil organizations, law no. 32 of 1964 remained in force until 2002. And despite the acknowledgment by the government that this law is no longer reflects and responds to the developments in the Egyptian society and to civil society concepts, it has been incorporated once again through the law no. 84 of 2004.

The end of Nasser's rule did not alter the main ideas of this law, nor did directing Egypt towards adopting policies that favor economic freedom, nor attempts to establish an open political environment and to accept the creation of multiple political parties that were hierarchically governed from above according very strict restrictions. Nor has the law been changed by Egypt's ratification of international conventions that protect the freedom of association; nor by the increased importance of human rights organizations both on international and local levels; nor by the increasing tendency by United Nations bodies to involve civil society institutions in international events. Most importantly, the will to control the role of civil society has stayed intact. This is despite an increasing awareness of the importance of societal participation and a realization of the role by civil organizations in face of poverty, unemployment, increasing illiteracy and a decrease in indicators on prosperity in societies that have witnessed a State that has withdrawn and no longer guarantees minimum

living standards for large portions of the population.

The nineteen nineties witnessed an increase of pressure from civil society organizations, particularly from human rights organizations, and increase of international pressure for the independence of civil society. Nonetheless, regime institutions were able to avoid these pressures and manipulate them, and during the peak of those pressures issued law no. 153 of 1999. The law included the same tools available in law no. 32 of 1964 that were used to guarantee governmental control over NGOs. However, the authorities at this moment made sure to launch naive propaganda aimed to give the impression that the drafting of this alternative law was made within the frame of a partnership with civil society. These allegations ultimately proved wrong as the version of the adopted law differed completely from the drafts sent to civil society institutions for review.

However, law no. 153 of 1999 did not last for more than a few months, and law no. 32 of 1964 was reinstated after the Supreme Constitutional Court ruled the whole law unconstitutional. This came as the law had not been reviewed by the Consultancy Assembly⁽¹⁾/Shura Council, which

⁽¹⁾Translator's note: Maglis Al-Shura is one of the two branches of the Egyptian Parliament, along with Maglis Al-Sha'ab (People's Assembly).

is required as the law is complementary to the Constitution.

Although the Supreme Constitutional Court invalidated the law for flaws in the procedure of its promulgation, the decision acquires particular importance for its confirmation of the freedom of association, and in particular the right to form organizations without interference or control from the government. The decision forms constitutional support for defending this right. It also supports the struggle for a democratic legislation to put a definitive end to the state's control over the freedom to form associations. The only restrictions on the creation of associations mentioned in Article 55 of the Constitution are activities that would be against the order of society, secret, or relate to military matters.

The Supreme Constitution Court stated that right of citizens to form civil associations is derived from the freedom of assembly. This right should result from an act taken by free will, thus independently and with no interference from the government. The Court added that the right to establish associations composes a constitutional principle in itself, thus granting every interested person the right to join any association that he or she deems is in line with and capable of expressing his or her goals and

interests. This right forms an integral part of his or her individual liberty, which is emphasized in the constitution as a natural right in Article 41.

The Supreme Constitutional Court confirmed in this decision that the right to form associations, the freedom of assembly and the freedom of expression are closely interlinked. It further noted that the right to form associations, whether for economic, cultural or social objectives, is one form of act aimed at the peaceful creation of frameworks for individual expression of positions and opinions. The Court further added in this respect that the right to assembly overlaps with the freedom of expression, and that both form elements of the individual liberty. This cannot be restricted without following the material and procedural methods granted by the Constitution or the law. The right to assembly cannot be marginalized or aborted; therefore it is necessary, according to the Court, to refrain from restricting the right to assembly, except according to the law and within the limits tolerated in democratic systems and in accordance with their values⁽²⁾.

However, law no. 84 of 2002 on Civil Associations and Institutions radically violated the constitutional foundation of the freedom of

⁽²⁾ See the Supreme Constitutional Court judgment in case no. 135 for the 21st year, hearing date June 3, 2000.

association. The law granted the administration the right to interfere in all aspects of NGOs. That this right to interfere amounts to a level of abuse is evident not only in the right of the administration to grant or deny licenses to any association, but also by in its power to appropriate the responsibilities of the members of the association and the capacities of its founders and elected organs. These include the adoption of the articles of incorporation and amendment thereto, the adoption of methods of daily administration, the regulation of the meetings and election methods of executive bodies and the right of the general assembly to chose the people it deems fit for the membership of these bodies.

The extent of the powers of the administration conflicts with one of the fundamental rights connected to associations; namely, the right to willfully join alliances, unions and networks, whether on national, regional or international level. In addition, the administration controls the process of granting authorizations to these associations to perform fund-raising activities or receiving foreign grants supporting its projects and activities. The administration also has absolute powers to dissolve any association or its board of directors, or to suspend some of its activities without giving its members the chance to solve the problems that led the

administration to such severe interference. Inflicting mass punishment on the members of the association and every person benefiting from it, even if the violations are committed by specific leaders or members of the association renders these measures similar to submitting the association to a death sentence.

Chapter Two

Where Do We Stand Compared to Best International and Arab Practices?

Law 84 of 2002 stipulates the same methods that were set forth under law 32 of 1964 that were designed to restrict the right of individuals to establish organizations. It did not allow any space for the people in charge of the organization to work independently from the government, by requiring approval for any action taken by the organization. The law made prior approval and supervision by the government in founding an organization and performing activities a condition difficult to waive.

The most prominent forms of restriction on civil organization and types of control in favor of the administration the law established are the following:

rganizations that do not wish to obtain legal personality and to be bound by said law. The law obliges every entity performing the activities

of an association to register, even if it has a different legal structure. Otherwise, the entity will be considered closed by force of law. The persons in charge may face imprisonment of up to six months according to Article 76 of said law.

This restriction contradicts the basic principle of freedom to form associations without the need to obtain a license or prior administrative authorization. In democratic countries, such as Finland, the founders of associations have the freedom to choose whether to register the association or not. In England, not requiring legal procedures or legal registration is considered a principle of public law. In Denmark, the law explicitly mentions that citizens have the absolute right to form associations for any legitimate purpose with no need for prior authorization. According to the law enacted in 1901 in France, establishing associations does not require prior authorization or publication. The registration of an association according to a specific legislation is usually conditional upon the benefits the association may acquire under the same law⁽³⁾.

⁽³⁾ Thibaut, Guillet, *The Best Practice Related to Freedom of Association Outside the Arab World*, a working paper presented during the seminar named “Towards Endorsing Freedom & Independence of Non-governmental Organizations”, organized by Cairo Institute for Human Rights Studies on May 25, 2008.

Second: Conditions for forming an association

The Egyptian law is a complete breach of the freedom of individuals to form an association. The establishment of an association should emanate from a decision of free will, and should not require a prior intervention from the authorities in order to acquire legitimacy. The law has in fact adopted a principle of prior authorization. Article 6 obliges applicants to submit their request to the government including basic information and founding articles of the association. The law considers an association to be without legal personality until it is officially registered by the administration or until 60 days have lapsed after submitting the application, with no objections from the administration within this period.

Because of this restriction, the Egyptian legislation can be considered more authoritarian in comparison with other laws related to associations in the Arab region, not to mention European democracies. In Lebanon, to establish an association does not require prior approval. The law only requires the founders to inform the government on the establishment⁽⁴⁾.

⁽⁴⁾ Ghassan Mekhibar, *The Organization of Associations in Lebanon, Between Freedom, Law and Practice*:
<http://www.spoli.net/civilsociety/info/lwassinfo.htm>

The Law on Charitable Organizations and Civil Agencies no. 1 of 2000 in the Palestinian territories guarantees the right to form associations without prior approval. Nevertheless, it does not allow associations to perform an activity without prior approval from the Minister of Interior approving the registration of the association within two months of submitting the registration request⁽⁵⁾.

According to Article 2 of the Moroccan Law on Associations issued in 2002, it is allowed to freely form associations without prior approval. Article 5 of the law only requires associations to submit a declaration to the municipality to which it is affiliated. The municipality will then grant a temporary receipt, which shall bear a stamp and a date. If necessary, the municipality will send a copy of the receipt and copies of the founding documents to the Public Prosecution, which shall grant its opinion on the request. The final receipt has to be delivered to the association within two months. If the receipt is not provided during this period, the association may begin to perform its activities according to the objectives mentioned in its articles of establishment.

However, some Moroccan organizations and associations are seeking to have the

⁽⁵⁾ Euro-Mediterranean Network for Human Rights, *The Freedom of Association in the Euro-Mediterranean Region*, December 2007.

establishment procedures modified. In particular, they wish to amend the form of temporary receipt, which they consider a true obstacle in the process of forming an association since it delays association in performing its activities. Associations are calling for an explicit provision in the law that requires the delivery of the receipt once the declaration is submitted⁽⁶⁾.

While the Egyptian law restricts the freedom to form associations by requiring the number of members (whether natural or legal persons) to be no less than ten, laws in the West consider an association an agreement between two or more people. This definition is applied in civil organizations legislations in Lebanon and Mauritania, as well as Syria and Tunisia, which are considered to be countries in which the authorities take very hostile actions against freedoms and civil society institutions in general. In Palestinian territories, the legislation does not require more than an agreement between seven persons⁽⁷⁾.

With respect to democratic countries, in France every assembly is considered a contract

⁽⁶⁾ Euro-Mediterranean Network for Human Rights, *The Freedom of Association in the Euro-Mediterranean Region*, Copenhagen, 2007, page 63; a memorandum requesting the amendment of the law pertaining to associations and assemblies in Morocco, the Moroccan Observer for Public Freedoms.

⁽⁷⁾ Abdallah Khalil, *The Arab Legislative Guide for Civil Associations*, The Arab Organization for NGOs, Cairo, 2006, page 87.

concluded between two citizens or foreigners whether they are natural or legal persons. In Germany, any association is considered an organization in itself, when formed by no less than two members (in case of associations not willing to obtain legal registration), or no less than seven members (in case of legally registered associations). This applies whether they are citizens or foreigners and decide to get together in order to achieve common goals. In the United States, the rules vary from one State to another. In some States, two persons are sufficient to form an association. In other States, an agreement between three⁽⁸⁾ or five persons may be required.

Third: the Power of the Executive Authority to Determine the Fields of Activity and Areas of Work of Civil Associations

The Egyptian law imposed supervision by administrative authorities over civil organizations in determining the fields of activity that would achieve their stated objectives. According to Article 11, organizations are obliged to obtain an administrative approval if they wish to work in several domains, in addition to obtaining the opinions of competent unions. This restriction allows the executive authority to control the

⁽⁸⁾ Thibaut Guillet, *Ibid.*

fields of activity of associations. There is no similar provision in the legislations of any Western democracies. This restriction is also absent from many Arab legislations, for example in Lebanon, Morocco, Palestine and Algeria⁽⁹⁾.

Fourth: Increasing Scope of the Prohibitions

The Egyptian Association Law no. 84 of 2002 increased the number of restrictions on which associations can be denied authorization, or which can lead to the suspension of activities or the dissolution of an association. Thus, this law violated the provisions of Article 55 of the Constitution, which states that the only restrictions to form an association are if the activity is contrary to social order, secret or of military nature. Instead, the law gave endless powers to the administrative authority to object to establishing associations through the restrictions set forth under Article 11. Many of these restrictions cannot be legally defined and can be easily interpreted in a manner that obstructs the freedom of association. Among these are limitations on the establishment of associations that have objectives or activities likely to pose threats to national unity, public order or morals, or that call for discrimination between citizens on the basis of ethnicity, origin,

⁽⁹⁾ Abdallah Khalil, *Ibid* page 88.

color, language, religion or beliefs. The same applies to associations that perform political activities and are considered political parties according to the Law on Parties, or activities exclusively performed by syndicates according to the applicable laws.

The executive authorities attempted with law no. 84 of 2002, in its Article 25, to restrict political activities by stipulating that only political parties can perform certain activities. This includes campaigning for or promoting the program of a specific party, participating in political campaigns supporting candidates in representative elections, spending money from association in support of the activity of a specific party, campaigning for any of its candidates or presenting candidates in the name of the association in representative elections. However, this does not guarantee that the law would not be applied to limit the activity of associations that for example study the level of compliance of political programs of certain parties with the principles of democracy and human rights, or cooperate to form common programs and goals with political parties. It may be acceptable to require license by the executive authorities to perform certain activities (as it did within the definition of work that falls within the exclusive scope of syndicates). However, the executive authorities have added that all claims made on

behalf of workers against the employers are of the exclusive rights of syndicates. The provision may therefore be used as a legal tool to prohibit or dissolve associations that intend to take cooperative actions in support of the legitimate rights of certain groups against the abuses of private or administrative employers.

According to international standards of freedom of association, whether by virtue of the International Covenant on Civil and Political Rights or the European Convention on Human Rights, this freedom may in democratic communities only exceptionally be restricted in matters affecting social order, public safety, public order, public health, public morals or the rights and liberties of third parties. However, governments may not employ these considerations arbitrarily in order to impose whatever restriction they want. The European Court of Human Rights has stated that States only enjoy a limited margin of discretion in this respect and that restriction of freedom of association requires strong and convincing justifications.

In Finland, any limitations to the freedom of association must be adopted by law. In addition, the legal language of restriction must be clear and defined in a way that would not allow broad interpretation. As well, limitations

must be proportional to the desired results. Therefore, limitation is only a final resort for the legislator if there are no other alternatives and must provide proper protection for these considerations based on international law.

In France, Article 3 of a law adopted in 1901 provides that “Any organization founded on a cause that is contrary to law or morals, or constitutes a threat to national unity or to the republican form of the State, shall be considered null and void”. In Denmark, prohibitions and terminations according to Article 78/2 of the Constitutional Law of 1953 are limited to associations that use violence, aim to achieve their purposes through the employment violence or the incitement to use it⁽¹⁰⁾.

In Hungary, associations of different legal types can adopt any purposes providing they do not impair the democratic system, public order, resort to violence or adopt racist messages.

In Brazil, the law accords a freedom to establish associations and a right to choose their goals, provided that these goals do not contradict the legal or moral regulations or violate the public or social orders.

Although Arab legislations in general tend to impose broad restrictions, these are relatively minor compared to those imposed by the Egyptian

⁽¹⁰⁾ Thibaut Guillet, *Ibid*

Law on Associations. For example, Article 14 of the Yemeni law does not allow the establishment of associations if their purpose is contrary to the Constitution and the applicable laws and legislations. The Moroccan law considers null and void any association established for a purpose contrary to law, public morals or Islamic religion, affecting national unity and royal order, or calling for discrimination. In Syria, Article 2 of the Law on Associations prohibits founding associations with illegal or immoral purposes, or with the purpose of threatening the safety of the Republic or the republican form of governance. The Lebanese law only provides for the rejection of registration in case the founding articles of an association are contrary to public law, public order or morals.

Fifth: Broad Abusive Interference in the Internal Administration of the Organization

The freedom of association covers the freedom of founders and members to organize the internal management of the association or the NGO, which are considered independent self-governed entities. As a general rule, NGOs should enjoy a wide authority to organize their internal structures and procedures without governmental intervention.

Nevertheless, Egyptian Law imposes arbitrary restrictions and provides for immense powers that annihilate the right of the members of an NGO to choose the appropriate internal structures and their representatives within the organs of the NGO¹¹.

Article 8 of the law grants the administrative authority the right to deny the identity of the organization. Article 34 obliges the association to provide the administrative authority with a list of candidates for the membership of its board of directors. It further grants the administrative authority the right to exclude any of the candidates based on the non-fulfillment of the conditions for candidacy. Practice shows that the exclusion of candidates or founders usually comes from instructions from security authorities and are not based on reasons related to the competence of candidates, or because they or the founders rejected by the administrative authority have been convicted with crimes affecting honor or credibility.

In addition, the law did not only oblige associations to base the rules for representation within their bodies on democratic standards, but it also arbitrarily imposed an electoral system for the board of directors, the number of

⁽¹¹⁾ Workers' Movement for Democracy, *Defending Civil Society, Report of the Workers' Movement for Democracy, January 2008*, page 31.

its members and the rules that govern inviting the general assembly to convene, all which are matters that are supposed to be within the competence of the general assembly itself. Article 32 provides that each organization must have a board composed of an odd number of members of no less than five and no more than fifteen, elected by the general assembly for six years. Each two years one third of the members will be re-elected instead of those whose membership expires.

Instead of giving the general assembly the freedom to determine the appropriate system for board meetings and decision making, Article 38 of the law regulated this internal matter. In addition, in case the number of elected members is not sufficient to hold a valid meeting, Article 40 allows the Minister of Social Solidarity to appoint an agent by justified resolution, either from the remaining members or elsewhere, to hold the powers of the board until the election of a new board.

In fact, this broad unjustified interference that violates the powers of the founders and the board members to draft the founding articles and to run the internal organs cannot be found in any of the legislations of Western democracies. Nor does the level of interference allowed by law reach those levels in many Arab countries.

In Lebanon, the law issued a century ago, did not put any significant restriction on the right of members to compose the board of directors or the method of convening the general assembly and its structure.

In Palestine, the legislator has not interfered in the composition of the board of directors. According to Article 16, the composition of the board, the criteria for choosing its members and the rules for ending their appointment are to be determined in the founding articles. Article 19 provides that the founding articles and the internal regulations shall determine the scope of competence of the board.

Similarly, the Moroccan law does not include any provision that allows the government to interfere in the composition of the organs of the association. In Article 5, it only obliges the association to declare any change to its articles of incorporation or internal structure.

Sixth: Wide Authority to Control the Activities of the Association and its Sources of Funding

The Egyptian law grants large powers to the administrative authority to control the activities of the association. The law provides that associations shall not join or be affiliated with any association, agency or organization located

outside Egypt until the administrative authority has been duly notified and has not objected during a 60-day period (Article 16). Article 17 prohibits receiving funds from natural or legal persons without approval by administrative authority.

Article 17 also prohibits receiving any funds from abroad, whether from Egyptian or foreign persons, unless the Minister of Social Solidarity has consented to it. Article 23 allows the administrative authority to request that the association withdraws any decision the administration deems illegal or contrary to the articles of incorporation. In addition, the law obliges the board of directors to notify the administrative authority of all decisions issued by it or by the general assembly.

These powers allow for a close financial control of the association and deprive it from the right to participate in activities and events that are not approved by the administrative authority. In addition, the right by the administrative authority to oblige the board to revoke some of its decisions constitutes an explicit interference in activities mentioned in the plans made by the organs of the association. The restrictions on local and foreign funding are particularly important since the Egyptian legislation allows the administrative authority to dissolve the association if it breaches these stipulations.

Although the Egyptian legislator adopted the principle of mandatory registration of associations, the law finds that this registration means that these associations are capable of receiving funds and financial support as long as they abide by the rules of transparency and accountability. Therefore, there is no necessity for any restrictions on receiving money or raising funds by associations as long as they are registered according to the law.

In democratic countries, associations are allowed to obtain foreign funds without prior approval from the authority and without even registering these funds. Laws in Germany, France, Denmark and the United States do not include any provision with respect to foreign funds. These funds are treated the same way as internal funding. Similarly, laws in Central and Eastern Europe do not include any rules regarding the receipt of foreign funds by local associations. On the contrary, legal frameworks in this region generally tend to facilitate the process of obtaining foreign funds, and not to hinder it⁽¹²⁾.

Contrary to the Egyptian law, the Lebanese Association Law does not limit the right of associations to obtain funds, including foreign ones.

⁽¹²⁾ Thibaut Guillet, *Ibid*

In Palestine, the legislator did not set any limits to receiving funds. Article 32 of the law allows associations to obtain unconditional aid serving their purpose. Article 33 allows associations to raise funds from people through events or charity fairs or other fund-raising methods, upon notification of the competent Ministry.

Article 6 of the Moroccan Association Law grants associations the right to obtain aid from foreign entities or international organizations. Associations receiving foreign aid are according to Article 32 required to announce the amounts and sources of these funds to the General Secretariat of the Government within a month from receiving them. No government authority is granted the right to interfere in this matter⁽¹³⁾.

Unlike the restriction imposed by the Egyptian legislator on the right of associations to join international alliances and networks, the Moroccan law does not include any provision prohibiting civil organizations from establishing or joining alliances and international or regional networks. The same approach has been adopted by Lebanese law. In Palestine, joining such alliances is not conditional upon the approval of the administrative authority. It is only required to inform the relevant ministry, according to Article 28 of the Palestinian law.

⁽¹³⁾ Freedom of Association in the Euro-Mediterranean Region, *Ibid* pages 32, 54 and 81

Seventh: Obstructing the Right of Associations to Resort to Courts

The law has created, by virtue of its Article 7, special committees in each governorate, be formed by a resolution of the Minister of Justice. These committees shall examine disputes that occur between associations and the administrative authority, and shall settle them amicably. Therefore, according to the same Article, administrative courts are not competent to settle any lawsuit related to a dispute between an association and the administration, until a decision is issued by this committee or a period of sixty days has lapsed since the date of submission of the dispute before it. Based on the provisions of this law, the composition of these committees will certainly lead to bias in favor of the administrative authority. The same Article provides that the chairman of the committee shall be a judge of an appellate court, and members shall include a representative of the administrative authority, nominated by the Minister of Social Solidarity, a representative of the association, and a representative of the regional union to which the association is affiliated, nominated by the board of directors of the General Union for Associations. It is to be noted that the chairman and a third of the members of the General Union for Associations are appointed by the President of the Republic.

Eighth: Breaching the Constitutional Guarantees that Require a Democratic Basis for the Creation of Unions

International standards lay down a right of associations to form networks and unions voluntarily among them. In contrast, the law sets in its Articles 65 to 68 the rules for the composition of unions, stipulating that these shall be based according to the region and field of activity instead of leaving the right to set these rules to the associations willing to form such unions or networks. Furthermore, the legislator decided on the missions of those unions and prohibited the creation of more than one regional union.

To aggravate the level of interference in organizing civil society, the law in its Articles 69 and 70 ordered the creation of a General Union for Associations whose members is to include unions on the basis of region and activity. The President of the Republic has the right to appoint its chairman and ten of the members of its board, which is composed of thirty members. In addition, it has determined this General Union's competence hierarchically from above.

The difference is substantial between the detailed hierarchical regulation of unions imposed by the Egyptian legislator and the relevant rules in other legislations. In Morocco,

the legislator only provided one article (Article 14) in which it allows associations to establish unions according to the same procedures regulating the establishment of associations. The Moroccan law does not include any restrictions on the freedom of the associations to establish unions and networks. In Palestine, the legislator allowed any three or more associations to create a union, and allowed unions to create a general union amongst them. Joining this general union must be voluntary⁽¹⁴⁾.

Ninth: Extensive Basis for Administrative Interference to Dissolve the Association

Article 42 of the law allows the Minister of Social Solidarity to dissolve an association in the following events:

- a. Spending or reserving its money for purposes other than the ones it was founded on
- b. Obtaining foreign funds or sending funds to a foreign entity without consent by the administration
- c. Committing a grave violation of the law, public order or morals
- d. Joining, participating in or becoming affiliated with a club, society or agency

⁽¹⁴⁾ Abdallah Khalil, *Ibid.* pages 104 and 105.

e. Collecting funds without prior consent by the administrative authority

f. Committing any of the acts prohibited by virtue of Article 11 of the law

It should be noted that the conditions triggering the right to terminate the association are based on breaches of the exaggerated restrictions to its activities, whether with respect to financing, fund raising or establishing institutional connections with foreign entities. Some of these conditions are arbitrary in nature, such as the commitment of a grave violation of the law, since it does not define which violations would be considered grave. Moreover, these irregular provisions may ultimately lead to the death of the organization. Also, this results in overstepping or ignoring the inherent authority of any general assembly to supervise and hold its board of directors accountable, to withdraw its trust from the board or from some of its members in case any of these violate founding articles and the objectives set by the members and founders. Therefore, giving the administrative authority the power to dissolve the association without giving the members a chance to address these violations constitutes a collective punishment for its members and for all who benefit from its activities.

Although the law entitled the association to dispute the decision of suspension before administrative courts, an amendment to the executive regulations in 2007 allowed the administrative authority to proceed with the suspension and liquidation procedures without having to wait for the judgment of the administrative court on its validity.

These provisions do not comply with international standards. In most European countries, associations cannot be forcefully terminated except through a judicial process. In Denmark, the Constitution provides that it is not permissible to suspend an association by government action. Therefore, only courts have the power to dissolve an association if it breaches the laws regulating associations. The European Court of Human Rights has in several judgments confirmed that any dissolution of an association must have solid justifications and is only possible in cases of extreme danger. Governments only enjoy a limited margin of discretion with respect to which breaches can lead to dissolution⁽¹⁵⁾.

With respect to Arab legislations, the Moroccan law modified in 2002 ended the power of administrative authorities to issue a dissolution decision, which can now only be issued by court decision. In Palestine, Article 37 of the law

⁽¹⁵⁾ Thibault Giullet, *Ibid*

determined the rules to suspend the association by administrative decision in case it does not perform any actual activity within a year from its registration, unless the reasons of the delay are not within the control of the association. In this case the registration is revoked after a written notice. The law however considers a breach of the founding articles a material violation leading to the dissolution of the association, unless it adjusts its position within three months of a written notice. The Palestinian law differs from the Egyptian law in that it allows the association to continue its activities until a court issues a temporary or final decision to stop its activities or to close it.

In Yemen, the administrative authorities cannot issue a decision terminating the association in case of grave breach of law. In this event, it has to file a lawsuit demanding the termination of the association. The administrative authority can only file this lawsuit after giving three notices to the association within a period of six months, in order to allow the association to take the necessary steps to remedy the alleged breaches. In all cases, dissolution decisions can only be enforced by a final judicial order from a competent court⁽¹⁶⁾.

⁽¹⁶⁾ Abdallah Khalil, *Ibid* pages 109-111.

Tenth: Excess in Incrimination and Punishment

The law has burdened civil activists with criminal punishments that render voluntary participation in civil society extremely dangerous. This contradicts the modern inclination to leave the determination of crimes and sentences to the general law. The sentences set forth under Article 76 of the Associations Law in Egypt include the following:

- Imprisonment for no longer than a year and a fine of not more than ten thousand Egyptian Pounds for any person who establishes a secret association or performs any activity banned by virtue of Article 11 of the law.

- Imprisonment for no longer than six months and a fine of no more than two thousand Egyptian Pounds, or either sentence, for any person who establishes entities that perform activities of associations without registering them according to the law. This also follows if the association continues to perform its activities in spite of a court decision ordering its suspension or dissolution, and in cases of reception of funds without the consent of the administrative authority or spending the funds of the association on activities contradicting the purposes it was created for.

- Imprisonment for no longer than three months and a fine of no more than a thousand Egyptian

Pounds, or either sentence, if the association performs its activities prior to registration or joins or becomes affiliated with foreign networks or unions without notifying the administrative authority or in spite of its objection. The same sentence applies to any person who spends the funds of the association in breach of the law and to any member of the board of directors of a public utility association who participates in merging the association into another without obtaining the approval of the administrative authority.

Unlike the Egyptian law, the Palestinian law does not contain any criminal provision or prison sentences. The Moroccan law provides for financial punishment for persons who violate the procedures for establishment and registration. Prison sentences only apply to persons who continue to run an association, or illegally reincorporate it, after the issuance of a dissolution decision, and to those who participate in calling for a meeting with the members of a terminated association. Article 2 provides that any person who commits any of the foregoing actions shall be subject to imprisonment for a period of one to three months, and/or shall be obliged to pay a fine.

Chapter Three

Implementation is More Abusive than the Law

The present study has so far clearly identified the powers granted by the law that impair the freedom of association and prevent existing associations from performing their activities without administrative legal intervention. It has further shown the large gap separating the Egyptian legislation from international standards, and proven that the Egyptian legislation falls behind other related Arab legislations. Notwithstanding any reservations we may have with respect to their implementation, these laws seem to be more supportive of the freedom of association and less restrictive than the Egyptian law, especially in Lebanon, Morocco and Palestine.

It may however be noted that the abuse by the administrative authorities of the powers granted by law makes the restrictions much worse in reality than the mere word of the law.

In practice, administrative authorities follow practices that directly breach the law. This may serve the interests of the security authorities, which although the law does not grant them any official capacity to intervene, nowadays have the upper hand regarding the management of the associations. Or this may be according to the dominant approach and belief within the government that civil society organizations are tools affiliated with and subordinated to the executive authority. According to this belief, organizations are not entitled to take any step without consulting the administration and obtaining its approval, even concerning matters for which the law did not grant the administration any rights to intervene. This belief stands clear in the directives and instructions issued by the Ministry of Social Solidarity and its affiliated departments. These instructions contain substantial intervention in matters not mentioned by the law, and breach rights that are confirmed by the constitution and not contrary to the law. This includes the right to travel, transportation, exchange of information and ideas, and the right of associations to communicate with the local, regional and international environment.

The Cairo Institute for Human Rights Studies conducted a field study to identify the major issues and concerns caused by the

implementation of the Law on Association.

This study relied on the following materials:

a. Field investigations, including interviews with 60 civil society associations and institutions that perform their activities in the following governorates: Aswan, Al-Menya, Bani Swaif, Al-Fayoum, Port Said, Ismailiya, Alexandria, in addition to Greater Cairo. When choosing these institutions, we took into consideration the diversity of their fields of activity, which ranges from different fields of development and empowerment of marginalized categories, to those working in the fields of defending human rights, women's rights and children's rights.

b. Analysis of the outcome of disputes before administrative courts after the adoption of the law no. 84 of 2002.

c. Conclusions derived from field studies conducted by other organizations, in particular two reports issued by the NGOs campaign supporting freedom of association.

It is worth noting that more than 90% of the institutions that were covered in the field study refused to have their names mentioned in the study, even though they cooperated in explaining the harms they face in practice. This near-consensus reservation is in itself an indicator of the degree of coercion that the

departments of Social Solidarity exercise. This is comprehensible in light of the broad powers granted the administration, which may put the associations under endless pressures and drain their resources.

Following this line, it is also comprehensible that other institutions refused to provide information regarding their problems with the administrative authorities despite pledges by the CIHRS to respect their right to keep the names of their institutions confidential.

In addition, we can also understand that the majority of disputes with administrative authorities that find their way to administrative courts are those connected to the abuse of administrative power either with respect to incorporation or dissolution procedures. Therefore, associations generally resort to courts only in matters that concern their birth or death, but avoid resorting to courts regarding daily obstacles they face. These include abuses by the administration with respect to funding their activities. Either by delaying the approval or rejecting the funding of these projects, the actions by the administration may lead to the associations not being able to fund their projects. It is worth noting that entering into a court dispute with the administration may in practice lead to more administrative pressures

than the association is able to bear.

Field Study Results

First: Establishment Problems and Denial of Legitimacy

Article 6 of the law requires the administrative authority to register a summary of the founding articles of the organization in a special register within 60 days from the date of submission of the registration request together with accompanying documents from the representative of the founders. If this period passes without response to the request, registration shall directly come into effect by virtue of law. The association will have legal personality starting from the date of registration or the lapse of 60 days from the date of submission of a complete request by the representative of the founders, whichever is nearest. However, a not unsubstantial number of associations covered in this study have faced severe difficulties in becoming public and official. These associations were not able to obtain legal personality for months and sometimes years. Some had to file lawsuits, and some of them have still today not been registered under the law.

According to the information provided by associations, following problems may occur during the procedure of establishment:

1.The requirement by the administrative authority that the founding articles of establishment comply with a model distributed by it to the associations. This model is meant to assist applicants in the preparation of the articles and not to become a burden by requiring absolute compliance with it.

2.Objecting to the individual founders. The associations had to either comply with this objection or take the dispute to the courts.

According to the targeted associations, administrative courts have approved the right of applicants to dispute the abusive decisions to remove some of the founders. These decisions have proved that these removals are primarily based on investigations by the security agencies and lack any acceptable justification. Among the associations that received favorable court decisions is the Integrated Care Association for the Students of West Nasr City. The Cairo Second Division of the Administrative Court cancelled the administration's decision, pointing to the fact that the decision was based on security directions; the documents did not include any reasons for the rejection by the administration and was not based on any material facts⁽¹⁷⁾. Other associations that obtained favorable judgments

⁽¹⁷⁾ State Council, Administrative Court, Second Division for Individuals, Case No. 21117 for the year 58, hearing dated February 24, 2008.

include the Civil Observer for Human Rights and the Helwan Foundation for Community Development.

3. Abuse in the power to reject establishment requests. This is also based on objections by the security authorities. This was the case with the New Woman Research Center, the South Association for Development and Human Rights, Sons of the Earth/Human Rights Institution, Center for Trade Unions and Workers Services, the Legal and Constitutional Heritage Protection Association, Sawaseya Center for Human Rights and Anti-Discrimination, the Minds Enlightenment Association and the Word Institution for Human Rights. These associations received favorable court orders canceling the administrative decisions that had blocked their establishment.

It is worth noting that it took the administrative authority almost three months to enforce the decision by the administrative court that called for the publication of Center for Trade Unions and Workers Services. The administration also prevented the registration of many associations by claiming that founding articles were contrary to the law. The clearest example is that of the Egyptian Association Against Torture, which submitted a request on establishment in mid-2003. On September 24, 2003 it received a letter

from the administration informing it that its objectives have been deemed contrary to the text and spirit of law. The administration justified this position on the fact that the association had among its objectives “attempting to amend Egyptian laws to conform to human rights conventions”! The administration also objected to the following objectives: “seeking Egypt to ratify international human rights conventions it has not yet ratified” and “the creation of pressure groups to call on decision makers to create anti-torture campaigns”.

In its letter of rejection, the administration asked the organization whether the constitution mentions civil organizations among the authorities that are entitled to create, adopt and amend legislations, and if the constitution and the law contain any provision regarding the creation of pressure groups or the participation in international or Arab networks. The administration further deemed affiliation under any pretext with international networks and creation of groups to pressure decision makers, to be contrary to public order and illegal! However, Article 11 of the law, which lists the prohibited activities, does not mention these specific ones.

Moreover, the Egyptian Center for Housing Rights were denied establishment for similar

reasons in 2003. However, it succeeded in obtaining a favorable court order in the lawsuit no. 1797 for the judicial year 58.

In 2008, the Egyptians Against Discrimination in One Homeland Institution was denied establishment under the pretext that its objectives were contrary to the provisions of Article 11 of the law. This article prohibits having objectives that may present a threat to social unity or call for the discrimination between citizens. However, the institution's goal is to fight discrimination, not to promote it.

Another type of justification for refusing establishment falls under the authority granted the administration by law to assess the appropriateness of the premises of the association in relation to the nature of its activity. For instance, the Mosawah Association for Human Rights faced, according to its officials, unfair hindrances by the Department of Social Solidarity upon submission of its founding documents. First, the administration refused to receive the documents, which obliged the founders to force the submission of documents by a judge. Although the founders' agent provided part of his office to serve as temporary premises for the association, the administration informed the founders that it objected to the premises because it was not a separate office and

therefore inappropriate for the activities by the association. This was based on instructions that had allegedly been circulated by the Ministry of Social Solidarity. However, neither the law nor the executive regulations require the premises to be a separate property. The association is only required to present a legal document of occupancy of the premises, whether by lease, ownership or actual use. The association is still struggling to obtain legal recognition through courts. The Supreme Administrative Court is currently reviewing the appeal on the decision of the Administrative Court, which has rejected the applicant's claim against the administrative decision on denying it registration for the lack of independent premises.

The Human Rights Legal Aid Institution in Aswan and the Legal Services Association for Women and Children faced the same problem. Other associations that requested to remain anonymous faced other problems in the founding phase, such as objections from the administration to founding articles that contain more than one field of activity. The administrative authority requested these institutions to reduce their activities to one or two fields, claiming that it is not allowed to be active in more than one field for the first year of establishment until after the adoption of the first financial statements. It goes without saying that including new fields

of activity requires even more complicated procedures to amend the founding articles, followed by procedures to obtain the approval by the administrative authority on the amendment. These authoritarian restrictions are contrary to the law and the executive regulations, which do not include any specific provision prohibiting the performance of activities in more than one field by associations that are established according to the law. Therefore, these limitations are selectively enforced upon the sole discretion of the managers of the Association Sectors in the Social Solidarity Departments in different or even the same governorate.

It is worth mentioning that the administrative obstacles with respect to establishment and the related disputes before courts can last for months or years, which adds to the burdens on the founders of the associations. These are forced to bear the expenses related to pre-establishment operations such as rent, electricity and water related to the premises, since it is not possible under the law to obtain any external grants, funds, or to undertake fundraising activities.

Second: International Human Rights Organization Not Welcomed

The Law on Associations grants in its first article concerning foreign non-governmental organizations a right to conduct work in Egypt

in areas and activities subject to the provisions of this act, under the condition of obtaining a permit from the Ministry of Social Solidarity and upon an agreement between the Ministry of Foreign Affairs and concerned organizations. The regulations on the operational procedures to obtain such permission in accordance with article III are condensed in specific points that include:

- Submitting a request to the Ministry of Foreign Affairs where the foreign association clarifies the type of activity it requests permission to exercise in Egypt, and the geographical scope and its duration for practicing this activity
- Proposed funds for the exercise of this activity and means of funding
- The request shall be accompanied by a copy of the statute of the foreign association, and a copy of the decision by a competent authority to approve the proposed activity of the organization in Egypt, requiring them to acquire a premise

In accordance with Article IV of the Regulations it follows that the content of the application of the organization is to be addressed to the competent department of the Ministry of Foreign Affairs and the Ministry of Social Solidarity. The Ministry of Social Solidarity shall address the Ministry of Foreign Affairs stating its opinion within 15 days. Accordingly, the Ministry of Foreign Affairs,

in accordance with article V, concludes the agreement with the foreign institution, within sixty days of date of submitting the application with the required data and documents. If the agreement is concluded with the Ministry of Foreign Affairs, the Ministry of Social Solidarity issues a permit for the foreign organization to carry out the activity within fifteen days from the date of receipt a copy of the agreement.

However, while these procedures are supposed to take place smoothly within the course of three months according to the law and its implementing regulations, they are translated into real obstacles to authorizing foreign organizations – whether regional or international – to work legally in Egypt. This is particularly clear in the denial by Egyptian authorities to authorize permission to any international human rights organization to open offices in Egypt, something Human Rights Watch (HRW) and the International Federation for Human Rights (FIDH) have sought for more than two years.

Already, the Egyptian authorities have suspended the activities of the International Republican Institute (IRI) in Egypt in 2006. The institute, a U.S. non-governmental, non-profit organization that conducts training programs in promoting democracy and enhancing political participation, claims that it did not receive

permission to resume activities. The Institute's management claim they had submitted the necessary papers required for legal registration, but the government asked for more documents. The Director of the Institute confirmed that the agreements signed between Egypt and the USAID permits their operation in Egypt without obtaining the authorization, something the government denied⁽¹⁸⁾.

It is obvious through the practice that foreign organizations that work for human rights and spreading democracy are particularly unwelcome in Egypt. This is evident through the denial of permission for the Regional Office of the United Nations High Commissioner for Human Rights in North Africa⁽¹⁹⁾.

Third: Grave Interventions in the Daily Work without Legal Support

Interventions by the administrative authority exceed the limits of powers they are granted by law. These powers are already very broad. For example, the administrative authority can object to any decision made by an organ of association, supervise the procedures for the nomination and election of leadership bodies

⁽¹⁸⁾ AlShark Alawasat News paper, June 5, 2006, issue 10051

⁽¹⁹⁾ First annual report, «from exporting terrorism to exporting suppression – human rights in the Arab world», Cairo Institute for Human Rights Studies, 2008, p.20

and the procedures related to calling for a general assembly meetings. Furthermore, the authorities can object to foreign grants intended to satisfy the financial needs of the association, or conduct a financial and administrative review of all the documents and accounts of the association under the pretext of preserving transparency.

As a matter of fact, these interventions are much more far-reaching than the letter of the law, and lack legitimacy even on the basis of any other law. The information we have gathered during this study from associations and administrative instructions shows severe types of intervention that exceed the limits of the law. In this respect, many conclusions can be drawn:

1. Practice shows that associations, which ought to enjoy independence in their activities, are regarded as offices or agencies affiliated to the Social Solidarity Departments, even with respect to the internal rules of recruitment. In some governorates, the associations received instructions in 2007 that they are required to inform the administration whenever they hold hiring sessions on financed projects at least five days before these positions are announced. This is to allow the administration to review these procedures and supervise the work of these

sessions in order to safeguard equal opportunities among candidates. (Review annex I)

Some associations mentioned that employees of the administrative authority often ask to review the registers of attendance of the employees in the association. Often, managing bodies of associations receive many comments that require response, whether with respect to salaries or remunerations granted to employees in certain occasions.

2. It is obvious that the cancellation of the law no. 32 of 1964 did not prevent the continuation of tens of regulations, decisions and ministerial instructions issued according to this law, but that these are used, when needed, in the face of NGOs.

In this respect, it is worth mentioning how civil associations in 2005 in Heliopolis, Cairo, received instructions from the General Administration for Associations, referring to prior instructions based on the ministerial decision no. 754 of 1972, concerning the organization of travels made by board members to represent the associations in international conferences. This is in spite of the fact that the Associations Law does not regulate the representation of associations in conferences abroad. Moreover, these rules are supposed to be established by the executive bodies of the associations. Therefore, the ministerial decision

that has been broadly applied to associations does not only represent a grave intervention in the association's affairs, it also constitutes a breach of the Constitutional guarantees of the right to travel and transportation. The decision requires the associations to submit a request to the administration to obtain the approval of the competent governor (in the case of regional associations), or the General Administration for Associations (for centralized associations) one month prior to the traveling date. The decision prohibits, without any legislative basis, the nomination of any member to travel abroad until two years have lapsed since his last trip. It also requires the association to present to the administrative authority a report on the work of the conference and the degree to which it benefits the association. (Review annex II)

Another evident practice constitutes re-applying outdated regulations that do not correspond to the economic developments that have followed from the adoption of a market liberalization policy in Egypt. Some associations working in income-generating fields for low-income women declared that the administrative authority objects to the prices it sets for hand crafts targeting upper classes and tourists. The reason is that these sales achieve higher profits than the regulations adopted back in the seventies allowed, which limited the profit

margin to 3%. This is in spite of the fact that these profits help increase the association's self-financing and reduces its reliance on external grants. In addition, these sales generate income for poor women and those heading their families. This also contradicts the cancellation of all mandatory pricing, covering even the most basic needs such as bread.

Forth: Prohibiting Communication, Circulation of Information and Calls for Meetings

Associations in some governorates received instructions in February 2007 that represent a violation of the rights of citizens and associations to exchange information and attend meetings. The instructions prohibit the associations from presenting any data or information to any entity without prior coordinating this with the administrative authority. It should be noted that the prohibition is not limited to communications with foreign entities, but all kinds of entities. In addition, these instructions prevented associations from accepting invitations or calling for meetings with other associations, regardless of the purpose, without prior consulting the administration. These instructions, which lack legal support, warn all associations from legal consequences in the event of breach.

It could be argued that such instructions reflect a dominant approach of some of the Social Solidarity Department officers but not an official policy of the Ministry of Social Solidarity. However, the instructions have in fact been issued according to directives directly circulated by the office of the Social Solidarity Minister. We believe, however, that the instructions were probably imposed on the Ministry by security authorities. Through the administrative authority, these play direct or indirect roles in intervention in the most specific details of civil activities (review annex III).

This belief is supported by the fact that administrative authorities in some governorates sent instructions to their affiliated associations in August 2008, in which they warned the associations from inviting Arab or foreign delegations or accepting invitations from Arab or foreign entities without security approval. According to these instructions, associations are required to consult with the National Security Agency before sending or accepting such invitations regardless of their purpose. Although these instructions are officially issued by one of the Social Solidarity Departments, the threatening language used in them implies that they have been directly sent by security authorities. The instructions concluded that any negligence in this respect shall generate

severe repercussions⁽²⁰⁾.

Fifth: The Restrictions on Funding Exceed the Letter of the Law

Although the law does not contain any provision requiring security clearance on foreign funding, the representatives of covered associations stated that the approval of the Ministry of Social Solidarity on foreign grants for associations is never issued without such clearance. Many added that the procedures to obtain administrative approval of any foreign grant are usually accompanied by direct connections or meetings with Association Security officers in different governorates. These connections and meetings are requested directly by security officers. Many associations believe that security clearance functions as a green light for the administrative authority to grant its official approval.

It should be noted that some associations claim that security objections in some ministries have invalidated the clearances given by Security Departments within the Ministry of Social Solidarity with respect to their projects. The field study shows that the administration clearly

⁽²⁰⁾ The authors of this report have been allowed to review the letter by an association that reserved to provide a copy as an attachment to this document, fearing that its identity will be revealed from the receipt signature.

violates the legal provisions regarding funding. According to the associations, some requests for funding may take up to eight months or even more than a year before receiving a response, despite that the law requires the administration to respond within two months only. The response is usually conditional upon the completion of a review by the administration of arrangements related to previous funds or to the performance of a financial or administrative review every time a funding is requested.

Moreover, administrative authorities insist on following the same rules with respect to all funding approvals, even if the source of funding is a foreign entity that has representative offices in Egypt that exist and act according to agreements concluded with the Egyptian government. The same applies to funding received through intermediary Egyptian institutions, such as the National Council for Women, the National Council for Childhood and Motherhood, and the Social Fund.

In this respect, we should mention that to compel the associations to follow the same procedures for approving funding obtained from abroad directly contradicts Article 56 of the executive regulations. This article grants associations the right to receive funds from foreign organizations or agencies that are authorized by agreement with the Ministry of Foreign Affairs to perform

their activities in Egypt. In this case, associations shall only notify the administrative authority of the funding source and the amount of money. In addition, according to its own wording, this Article is supposed to apply to funding that associations receive from natural foreign or Egyptian persons, or Egyptian legal persons, regardless of the nature of the funding.

In cases where a foreign funding institution intends to finance the programs and activities of several organizations through a coordinating national association or institution, these organizations cannot obtain the funds immediately after the coordinating institution receives administrative approval of the whole amount. Each organization has to file a separate request to the administration for approval with respect to its portion of the grant.

This leads to the waste of many months before the administrative approval is granted, thereby affecting the deadlines and obligations that have been agreed upon with the financing institution for the completion of the projects. Organizations are often obliged to either request an extension of the project from the financing institution, or take the risk of temporary self-financing from other resources regardless of the official approval. This can have severe consequences that may lead to the dissolution

of the association, as in the case of Association of Human Rights Legal Aid.

The administration also increases the obstacles related to obtaining external grants by exaggerating the requirements of information, documents and reports in a way that burdens and exhausts the association every time it submits a request for the approval of an external grant. The documents the association are required to present include matters that the law and executive regulations do not mention, such as:

- An original and two copies of the board minutes including the approval of the grant, its amount, the financing institution, the project and its duration
- An original and two copies of a list of board members including the name and position inside and outside the board. This list is supposed to be already known to the administration according to the applicable legal provisions, which compel the association to inform the administration of the names of board nominees, their jobs and the decision by the general assembly in this respect.
- An original and two copies of the financial statements for the last fiscal year
- An original and two copies of a summary of

the project, its goals, scope and the number of beneficiaries

- An original and two copies of a study about the prospects of the project certified by the association

The administration to which the association is affiliated sends these documents to the ministry, along with a financial and social report, and a follow-up form concerning the past grants and the way they were spent. (Review annex IV)

Sixth: Security Agencies Have the Upper Hand Concerning the Composition of the Executive Organs of the Associations

Just as the security authorities have a dominant role regarding establishment licenses, removal of some the founders, funding licenses, the activities of the associations and their involvement in national, regional and international fields, security authorities also have a clear role in the exclusion of nominees to the boards of directors, in violation of the law. This is evident in many administrative court rulings that show how the administrative authorities issue their official decisions on excluding nominees on the basis of security instructions, reports or investigations.

According to the court rulings we have reviewed, the security interventions to exclude nominees have affected many associations, including the Society of Islamic Rule (Al Jam'eyya Al Shar'eyaa) in Imbaba, the Integrated Care Association for the Students of West Nasr City, the Society Development Association in Nahya, The Hajj and Visiting Facilitation Association in Nahya, the Muhammadite Sunna Supporter Association in Cairo, the Light of Guidance Islamic Association (Jam'eyat Noor Al Hoda) in Hawamdeyya, the Veterenian Egyptian Association in Cairo and the Benevolence and Goods Association in Oseem.

In all these cases, Administrative Courts cancelled the administrative decisions, pointing to how the decisions to exclude candidates or members of board of directors were only supported by unreliable hearsay from security authorities.

According to the second report of the NGO Campaign in Support of Freedom of Association, the administrative authority asked the Freedom Association for Societal Development in one of the villages of Al-Dakahleyya to dismiss the chairman of the board based on security instructions, a few months after the establishment of the association. The chairman had to resign, according to the report, after

being subjected to intense pressures, including threats to fake legal charges against him.

Seventh: The Abuse of NGOs Closure and Dissolution Procedures

We have previously noted the radical amendments made to Article 97 of the executive regulations, according to which administrative authorities have full power to suspend and take executive procedures to close associations without having to wait for a decision from the competent court to legitimize the decision of suspension or closure.

This amendment affected the Association for Human Rights Legal Aid a few days after it had been issued. It was originally incorporated as a civil corporation in 1994 and adjusted its legal form under the Associations Law in 1999. The association was closed in September 2007 and the administration proceeded to liquidate it and to take into possession all its documents, funds and assets, at a time when the challenge by the association against the decision was still pending before administrative courts. This dissolution decision was based on financial breaches. The association had allegedly obtained external grants during 2003 and 2004 without administrative approval. This despite that the association had duly submitted

a request for approval and the administrative authority had not responded during the two months period specified by the law. The law has not specified whether the lack of response from the administration during this period should be considered a refusal or an approval. It is also worth noting that these breaches - assuming they are true - have been made by a prior board of directors and not the board that has been terminated.

The decision of the Administrative Court issued in October 2008 in favor of the association shows that the procedures were intended to harm the association, which is particularly active in the field of confronting crimes of torture and other violations by the police. The decision shows that the breaches mentioned in the dissolution decision are old and, provided they are true, should have been subject to administrative action when they were first committed. The decision further confirms that the administrative authority should have increased its punitive measures gradually instead of starting by a direct dissolution decision. Furthermore, the procedures of the decision were erroneous since it was not submitted to the General Union of Associations as required by the law, and since there is no evidence that there are breaches that require dissolution. Therefore, the Court finds that the dissolution decision lacked legal and

factual foundation⁽²¹⁾.

Among the decisions in the Administrative Court we have reviewed, we found many instances of abuse by administrative authorities of their broad powers to dissolve associations, as with the case of the Legal Aid Association. The Administrative Court of Justice cancelled several administrative decisions on the closure of associations, including the Local Society Development Association in the central district of Alexandria (in May 2003), and the People of the Quran and Sunna Association.

⁽²¹⁾ Association for Human Rights Legal Aid, *Starting Over: Press Release, after the Suspension of the Dissolution Decision of the Association*, October 27, 2008; www.anhri.net/egypt/ahrla/2008/pr1027.shtml

Chapter Four

Amending the Law Would not Constitute a Step Forward

As described above, the provisions of the law no. 84 of 2002, as well as its abusive implementation, clearly show that the independence of civil activity requires a break from the philosophy of control and supervision that dominates its provisions. Therefore, it is hard to be optimistic in relation to the government's expressed intentions to amend the law and to claim that the huge restrictions of the law could be even partially alleviated. The government is most probably aiming to narrow the limited scope of freedom under which civil associations and NGOs function.

This hypothesis is not only based on the information released concerning the proposed amendments, but also on the fact that the government did not even attempt to subject these amendments to the same propaganda that accompanied the preparation of the law no.

153 of 1999, when it claimed that civil society institutions have been involved in the process. This time, the government only chose some of the civil society institutions leaders to join a so-called expert committee.

More importantly, the attempts to amend the law this time are surrounded by circumstances that clearly show that the government is determined to completely eliminate all forms of social and political mobility. These attempts are supported not only by the significant unbalance of power in favor of the government as opposed to the powers seeking democracy, freedom and development, but also by the decrease in international pressures to democratize the Arab World under the pretext of fighting terrorism.

This political will to eliminate the scopes of freedom has been illustrated within the last two years by clashes with the judges and the Judges Club, the expansion of the scope of application of Emergency Law and martial laws against the opponents of the regime and the submission of opponents to exceptional military courts. In addition, the recent Constitutional amendments weakened the constitutional guarantees for personal freedom and security, safety of private lives and homes and fair trial by the regular courts under the claim of “combating terrorism”. Moreover, through prison sentences

that are unprecedented in Egypt, the regime is severely oppressive against independent and party affiliated press. These sentences targeted five editors-in-chief, many journalists and the chairman of an opposition party for matters published in the journal of the party.

At the same time, the government closed down two prominent human rights institutions for the first time in Egypt. These institutions are the Center for Trade Unions and Workers Services that was established 17 years ago and the Association for Human Rights Legal Aid that was established in 1994.

It is relevant in this respect that the procedures for the dissolution of the Association for Human Rights Legal Aid were based on a material amendment of Article 97 of the executive regulations of the Associations Law, according to which the dissolution decisions issued by the Ministry can be granted immediate enforceability, which was the case with the said association. The enforcement shall not be suspended until an administrative court reviews the dissolution decision. Before amendment, the provisions of the article required that all liquidation procedures would be suspended during the legal period in the event a lawsuit is filed that challenged the decision.

As a result of this amendment, the administrative authority completed the dissolution and transferred its money and property to other associations prior to the issuance of a court ruling, which was issued a year later and cancelled the dissolution decision. It was obvious that the legislative action to change the executive regulations targeted this specific association that was active in revealing torture crimes, since the dissolution decision has been issued only four days after publication of the amendment to the executive regulations in the Official Gazette on August 29, 2007⁽²²⁾.

It is also significant that discussions about the amendment of the Association Law come in the context of a legislative attack aimed at restricting freedoms. For example, this was simultaneous to the promulgation of a law that punishes through imprisonment persons who demonstrate in front of fields of worship.

It is obvious that the Anti-Terror Law is targeting political opponents, human rights and civil society activists by its exceptional measures. This is shown through the provisions that punish by imprisonment any person who incorporates, establishes, organizes or manages an association, an agency, an organization or

⁽²²⁾ Defense Memorandum of the Association for Human Rights Legal Aid presented to the Administrative Justice Court in Cairo, disputing the dissolution resolution dated September 4, 2008.

an assembly with the purpose to encourage and call, in any way whatsoever, for violating constitutional or legal norms, or for preventing any State institution or public authority from performing its activity or damaging national unity. Therefore, armed or non-armed violence is not a condition of incrimination! Therefore, it is easy to misinterpret these provisions in a way that will incriminate all sorts of organizations and go after political groups, social movements and human rights organizations. For instance, this may occur if the security authorities consider the call for constitutional and legislative changes to be a call to violate the provisions of the Constitution or the Law, or if the struggle against forms of discrimination based on religion or belief is a threat the national unity⁽²³⁾.

In the midst of this environment characterized by hostility to freedoms in general, it is hard to be convinced that any legal improvement would occur through the amendments the government intends to make. This is supported by specific information released near the end of the year 2007 concerning the governmental suggestions for amending the law. These suggestions maintain almost all provisions confirming governmental control over NGOs, and adding to it a more hostile approach. This is reflected in

⁽²³⁾ For more information on the provisions of the Anti-Terror project of law, see *Al-Masry Al-Youm* newspaper on February 20, 2008.

the following matters:

1.The suggested amendments adopt a more restrictive approach towards forms of NGOs that are created outside the framework of the Associations Law. This concerns specifically organizations established according to civil law as non-profit corporations. The suggested amendments will compel any group performing association activities, as defined in the present law, to adjust its legal form with the penalty of automatic dissolution by virtue of law. Moreover, these amendments add in this respect that no authority shall register such entity and will be under the obligation to de-register any already registered. Therefore, the amendment obliges offices that register and announces companies to refrain from the announcing a corporation that may work in civil society field, and to review the situation of all registered companies and de-register any company already active in this field.

2.The amendments will restrict the right of the associations to choose their field of activity by limiting those fields to only three. Another restriction is by prohibiting associations to include in their founding articles an activity without the money reserved for this association, appropriate for the size of the proposed activity.

3.The suggested amendments tend to grant the General Association Union additional powers, almost transforming it into a tool for the administration. In many instances, the General Union must issue an opinion on procedural matters. The amendments compel associations to notify the Union of decisions by their board and general assembly. This is notwithstanding the fact that the General Association Union is not a created voluntarily institution by associations but rather imposed by law. According to the current law, the board of directors of the Union is composed of 31 individuals, a third of which, in addition to the chairman, are appointed by the President of the Republic.

4.By preventing associations to adopt a system of a closed membership, the proposed amendments increase the risk of imposing members on the association. These may then play roles that are contrary to the goals of the association or for the benefit of security authorities. If applied, this may result in repeating in Egypt the Tunisian government's practice to internally split NGOs by imposing unwanted members.

5.The amendments create new possibilities of harassing the associations by granting the administration additional powers to impose sentences. These measures include

the suspension of activities or the prevention of board members from nomination for two consecutive terms, and may occur in case the association does not allow the administrative authority to perform audits, or moves to new premises without informing the administrative authority⁽²⁴⁾.

In brief, the possibility of eliminating the threats facing NGOs requires a strict adherence to the principles related to the independence of civil society and to international standards applied in democratic communities regarding the guarantees of the freedom of establishing associations. This requires an exposure of the general philosophy of the law, since we are aware that any attempt to amend the law would not help free its provisions from the philosophy of increased control and supervision. This is contrary to the principles of NGOs and its independence guarantees according to related international standards.

Based on the foregoing understanding, the Cairo Institute for Human Rights Studies is calling for the adoption of an alternative law proposal that respects international standards protecting the freedom of civil association and its independence.

⁽²⁴⁾ Concerning these amendments, see Esssa Eldin Mohamed Hassan, *Let Us Join Efforts Against the Governmental Plan to Stifle Civil Society*, a position paper issued by the Cairo Institute for Human Rights Studies: www.cihrs.org

Chapter Five

Towards a Democratic Legislation That Supports the Freedom of NGOs

In support of the freedom of association and the right of NGOs to perform their activities independently from all kinds of governmental control and supervision; and based on our awareness that any attempt to amend the present legislation -even in good faith from the Government's side -would fail to free the law from the control and supervision mentality that limits NGOs throughout the provision of the present law; and in contribution to the on-going discussion on the Association Law and the possibilities of freeing civil society;

For all the foregoing reasons, the Cairo Institute for Human Rights Studies has in cooperation with the Egyptian Organization for Human Rights adopted a joint initiative to formulate a law proposal, alternatively to the law no. 84 of 2002.

This proposal has received the support of a large number of human rights organizations, the member organizations of the Freedom of Association Campaign and the members of the Egyptian Alliance for the Freedom of Associations, formed according to an initiative by the Egyptian Organization for Human Rights.

We would like to note that this joint proposal is an expression of the will to coordinate and join forces of many parties that have previously attempted to prepare separate law proposals, either amending the present law or replacing it.

Therefore, the present project is an attempt to integrate the different proposed drafts previously prepared by the Cairo Institute for Human Rights Studies and the Egyptian Organization for Human Rights.

It has been an honor to the Cairo Institute to receive the valuable contribution of Justice Hesham Al-Bastawisy, the prominent judge and Vice-President of the Court of Cassation, to the first drafts of the proposal. His contribution constituted a basis for the development of the draft law and the merging process with the drafts of the Egyptian Organization for Human Rights. During the final phases, a joint drafting committee from both organizations worked on the project, in addition to Mr. Negad Al-Boar'i,

the well-known human rights activist and legal expert.

This final draft of the joint proposal incorporated the comments and suggestions of many human rights organizations that approved the final version.

Basic Features of the Law Proposal:

The proposal relies to a great extent on international standards laid out to guarantee the freedom of association in democratic communities, and the principles of freedom of civil society that NGOs strive to include in any national legislation related to the regulation of civil society.

We can summarize the most important aspects of the proposal as follows:

First: To register an association is a voluntary procedure. Associations and NGOs not officially registered should not be penalized merely for the lack of legal personality. This principle also applies with respect to establishing networks, unions or alliances between any numbers of associations.

Second: To eliminate unjustified restrictions on registration for associations seeking to acquire legal personality. This is reflected in the

provision that any association is established by no less than two natural and legal persons, and shall not aim for financial profit whether for itself, its founders or its members (Article 1). The proposal only prohibits having a purpose that contradicts international human rights conventions and the Constitution (Article 3).

The project embraces the right to establish associations by notification. In this respect, a special registry shall be located in each preliminary court, in which associations shall be registered and their publication procedures shall be completed. Article 7 of the proposal rejects the concept of prior control over registration and publication. Accordingly, the proposal specifies the Ministry of Justice as the competent administrative authority.

Third: According to this proposal, the administration has no right to prior control over the publication of associations or any of its activities. All activities of the association shall be supervised by its general assembly and be subject to the competent courts, namely the preliminary courts.

Therefore, the administrative authority shall be a sort of institutional memory that receives from registered associations their founding articles, internal regulations and developments thereof, balance sheets, closing financial

statements, structure of the executive organs and any changes thereto.

This does not prevent the administrative authority - and any interested person - to resort to courts either to dispute the announcement procedures, any board or general assembly resolution or any of its activities (Articles 7, 11, 15 and 30).

Fourth: The founders and members of the association have an inherent right to draft its founding articles, including the rights and duties of the members, the rules regulating general assembly meetings and the structures of executive organs (Article 9).

Fifth: The law proposal acknowledges the right by associations to perform income-generating activities and fund-raising, just by notifying the administrative authority (Article 17). It also acknowledges the right of the association to hold public meetings inside and outside its premises, issue periodical publications and establish branches and offices throughout the country. It also guarantees the right of the association to join networks and agencies outside Egypt upon notifying the administrative authority (Article 20).

Sixth: The proposal acknowledges the right of each association that has legal personality to enjoy tax and custom cuts and exemptions.

Seventh: In order to guarantee transparency, honesty and accountability and to avoid conflict of interests, the proposal includes the following:

- Persons who have been convicted of honor crimes by final judgments are not permitted to be engaged in managing the association, unless their names have been legally cleared (Article 4).

- Provisions in the founding articles may not grant members or their heirs a right to receive the property of the association in case of dissolution (Article 6).

- It is prohibited to combine membership in elected bodies and paid work in the association (Article 14)

- Association must keep its funds in special registers, and appoint an external auditor if its budget exceeds 250,000 EGP (Article 15).

- Every person or entity has the right to obtain information regarding the activities of the association through the administrative authority that holds its documents, who will set the rules regulating the right to review these documents (Article 16).

- In addition; and as previously mentioned, the proposal grants the administration and any interested person a right to recourse to courts to dispute any procedure or decision

made by the association, including the right of the administrative authority to object to fund-raising activities.

Eighth: Since civil institutions are established on the basis of allocation of funds, the proposal requires an allocated capital of 50,000 EGP to ensure seriousness of the establishment process. This does not apply to associations that have already been announced (Article 21). In this context, the proposal took into consideration the numerous NGOs that chose the form of “civil institution” to avoid certain additional restrictions on civil associations in the present law.

Ninth: The proposal does not include any criminal sentences. Any measures taken against the association should apply gradually and based on judicial provisions. These include warnings, canceling the disputed decision or activity, suspending activities or board membership for the breaching member, full or partial dismissal of board members or temporary suspension for the activities of the association. These gradual measures ensure that the association and the people benefiting from its activities shall not be harmed because of certain breaches that can be adjusted or certain errors or misconducts that should only be considered the responsibility of the persons who committed them. Therefore,

dissolution shall be a final resort and shall only be implemented by virtue of a final court ruling (Articles 30 - 33).

Draft Law on Associations (Non-governmental Organizations- NGO's) and Private Institutions

Joint Project Between the Cairo Institute for Human Rights Studies and the Egyptian Organization for Human Rights⁽¹⁾.

⁽¹⁾ This project supported by a number of human rights organizations, namely: members of the freedom of association campaign, members of the Egyptian NGOs freedom coalition, democratic development foundation, association for human rights legal aid, the Egyptian association for community participation enhancement, The Egyptian Center for Woman's Rights, The Human Rights center for the Assistance of Prisoners, center for trade unions and workers services, the Arabic Network for Human Rights Information, new woman research center, the Egyptian Initiative for Personal Rights, Land Center for Human Rights, Andalus institute for tolerance and anti-violence studies, the Arab Organization for Penal Reform.

In the name of the people,

The President of the Republic,

The People's Assembly approved the following Law and it is hereby enacted:

Article (1)

Without prejudice to the regulations of associations established by virtue of international conventions, private associations and institutions shall be subject to provisions of the attached Law, with the exception of the following:

a) Associations established in accordance with or their regulations are approved by special resolutions from the Executive authority, or are subject to control or supervision of such;

b) Associations and institutions seeking financial profit for their members or staff;

c) Political parties, professional syndicates, trade unions, and student unions;

d) Commercial companies and companies established in accordance with the provisions of Article 505 and the subsequent articles of the civil law.

Foreign non-governmental organizations may be authorized to practice the activities of associations (NGOs) and private institutions subject to provisions of the present Law pursuant to the rules established therein. The Executive Regulations of the said Law shall organize the facilitating procedures.

Article (2)

Associations and private institutions in existence during the entry into force of the present Law and registered in accordance with Law No 84 of the year 2002 shall be officially registered. Said shall amend their statutes and request the proclamation thereof in application of the provisions of said Law within one year as of the date of entry into force thereof if they desire to enjoy legal status.

Article (3)

All associations or private institutions, the statutes of which have been re-proclaimed pursuant to the provision of the present

Law, shall re-constitute the relevant board of directors in accordance with their re-proclaim within six months as of the date of completion of proclamation.

With the proviso that the executive and administrative structures of private associations and institutions existing upon the entry into force of the present Law proceed with their activities until said have been re-constituted pursuant to the rules stipulated in the present Law.

Article (4)

The term “administrative authority” shall, in the application of provisions of the attached Law, mean the Ministry of Justice.

Article (5)

Law No 84 of the year 2002 on private associations and institutions shall hereby be repealed. Any other provision contrary to provisions of the present Law shall also be repealed.

Article (6)

This Law shall be published in the Official Gazette and shall come into force as from the date of publication thereof.

This Law shall receive the seal of the State and

shall be implemented as a state law.

*Issued at The Presidency of the Republic on
..... A.H corresponding to A.D*

Chapter One Associations

Article (1) The term “Association” shall, in the implementation of provisions of the present Law, mean any permanent or impermanent non-governmental organization established by two or more natural or artificial persons, for non-profit purposes neither for the associations, founders or members thereof.

Article (2) the relevant association shall put forth statutes, signed by the founding members thereof and including the following data:

1)Name, purpose and headquarters of the association;

2)Name, surname, nationality, profession and place of residence of each founding member;

3)Requirements of membership and situations of withdrawal thereof;

4)Rights and duties of members;

5)Bodies representing the association, competencies of each, means of selection and deposition of members, or withdrawing or suspending membership thereof;

6)Prerequisites for the validity of regular and extraordinary general assembly meetings;

7)Resources of the association and the means of financial audits;

- 8) Rules of statute amendment;
- 9) Rules for the dissolution of the association and the body to which the funds thereof will be reverted.

Article (3) The purpose of the association may not contravene either with international human rights instruments or with the Constitution

Article (4) Persons irrefutably convicted of crimes related to honor or integrity may not participate in the management of an association, unless they were absolved.

Article (5) The association shall, in all its affairs, be subject to the general assembly thereof exclusively; in situations where the number of active members of the association is less than ten, the competencies of the general assembly shall be reverted to the board of directors. The association may not be placed under seizure or the funds thereof under sequestration by any judicial or non-judicial authority except in circumstances exclusively provided for in the present Law or in the statutes of the association.

Article (6) The statutes of the association may not provide for devolution of the association's funds upon dissolution thereof to members, their heirs or families.

Article (7) The association shall notify the

administrative authority, by means of a registered delivery return letter of the establishment of the association, enclosed therewith a certified copy of the association's statutes. A special register called the "register of private associations and institutions" shall be established at each court of first instance headquarters, in which the association shall be registered and assigned a serial number as soon as a copy of the statutes is deposited therewith, certified by the board of directors. The association may not, under any account, be denied proclamation.

Article (8) The association shall be proclaimed by publicizing the name, registry number thereof, the court of law in the special register of which the association has been registered, the purpose of the establishment of the association, names of founding members and detailed summary of the statutes in one of the widely spread newspapers. Proclamation procedures shall, within one month term as of the date of deposition of the documents of the association, be carried out by a competent employee of the "registry of private associations and institutions" otherwise the legal representative of the association may carry out such at the expense of the register.

Article (9) The judicial personality of the association shall be established once the founding members have signed the statutes

thereof and upon notification of the competent administration and the court of first instance. The judicial personality may not be invoked against others except after the proclamation of the statute of the association.

Article (10) The “register of private associations and institutions” shall, issue a certificate to the association including the relevant name, purpose, place of registry and date of proclamation of such. The association shall be committed to register and proclaim all amendments introduced to the statute according to the same procedures as provided for in the previous articles. The amendment shall not be implemented regarding others except after the date of proclamation.

Article (11) The administrative authority may, demur the establishment of the association after such is fully proclaimed, or may object to the amendment of the relevant statute by means of a petition incorporating the reasons for the demur. The memorandum shall, within thirty (30) days of the date of proclamation, be submitted to a judge of provisional matters at the court of first instance having jurisdiction over the headquarters of the association. The judge shall, subsequent to hearing statements of the administrative authority and the legal representative of the association, order either

the corroboration or dismissal of the objection of the administrative authority.

The order of the judge of provisional matters may, within thirty (30) days, be challenged pursuant to the rules established in the Code of Civil Procedure.

Article (12) The association shall, upon establishment thereof, be committed with matters vowed by relevant executives or employees; such avowals may be enforced on matters concerning the association but may not be invoked against others for claims of slackening of registration and proclamation procedures.

Article (13) The right to voluntarily adhere to or withdraw from the association is guaranteed.

Article (14) Membership in the elected bodies of the association and paid work therein shall not be combined.

Article (15) The association shall carry out the following tasks:

- 1) Keep documents, correspondences and records at the headquarters thereof;
- 2) Register the data relevant to each member of the association in a special register;
- 3) Keep in special records the minutes and decisions of the sessions of the general assembly and elected bodies of the association;

4) Book-keep relevant accounts showing revenues and sources thereof, expenses and accounts thereof;

5) Appoint an external auditor if the budget thereof surpasses L.E250.000 (two hundred and fifty thousand Egyptian pounds).

6) The association shall deliver to the competent administrative authority a copy of the relevant final annual accounts, certified by the general assembly and the external auditor, as well as decisions of the general assembly and the board of directors. The association shall also notify the administrative authority of the sources of funding thereof.

Article (16) All persons, bodies or institutions may have access to all books and records relevant to the activities of the association upon submission of a request to the administrative body where such documents are deposited. The competent administrative body shall establish the rules organizing such undertaking to ensure the right of all to have access thereto.

Article (17) The association may, after notifying the administrative authority, carry out all money-generating activities, including fundraising from agencies, institutions and the public at large, through all possibly available means, such as television campaigns, charity concerts and correspondences, while being exempt from all

prescribed charges and taxes on such services. The administrative authority may object to fundraising within one month from notification of such, by means of a petition including the reasons for the objection, submitted to the judge of provisional matters within the competent court of first instance.

Any association taking part in economic activities helping such to fulfill its objectives may allocate the profits generated by such activities for the purposes of the association.

Article (18) Funds of associations shall be exempt from all kinds of dues, taxes and customs.

Article (19) Donations made by individuals, institutions and companies to associations shall be assessed from the tax base of the donor.

Article (20)

1. Associations shall be entitled to convene plenary meetings either in headquarters of such or in any external halls.

2. Associations shall be entitled to publish brochures or magazines of a periodic nature without being subject to restrictions prescribed in the Law on the Regulation of the Press.

3. Associations may be affiliated with, participate in or adhere to any association

or body residing outside Egypt, pursuant to the rules defined by the statute or the board of directors. The board of directors shall be under an obligation to notify the administrative authority of such.

4. Associations shall be entitled to establish chapters and offices in governorates of the Republic and in cities pursuant to the rules defined by the statute.

Chapter Two

Private Institutions

Article (21) The term “Institution” shall, in the provisions of the present Law, mean any judicial person establishing by virtue of the allocation of funds not less than fifty (50) thousand Egyptian Pounds for a specific or non-specific period and for a purpose not contravening provisions of the present Law. Institutions established and proclaimed prior to the enactment of the present Law shall be excluded from this stipulation, unless such wish to become an association.

Article (22) Institutions shall be established by virtue of an official deed or testament. Such deed or testament shall be equivalent to the statute of the institution and should include the following data:

1)Name of the institution, field of activities, scope of work and headquarters thereof;

2)Purpose the institution was established for ;

3)Accurate statement of the funds allocated for this action; and

4)Hierarchy of the administration of the institution, the method of selecting, dismissing and replacing members of the board of directors thereof.

Article (23) Establishment of an institution shall be deemed, for creditors or heirs of the founder, a donation or testament. If the institution was established in detriment to the rights thereof, they may file legal action as prescribed in the law for cases of donations and testaments.

Article (24) In the event the institution was established by virtue of an official deed, the founder(s) may waiver such by means of another official deed until the institution is proclaimed in accordance with the provisions stipulated in the present Law.

Article (25) Institutions shall be proclaimed upon the request of the founder(s) or first executive director thereof pursuant to procedures for the proclamation of associations established in the present Law.

Article (26) All special provisions on associations prescribed in the present Law shall apply to all institutions subject thereto unless otherwise provided for in the Law or in the deed of establishment thereof, except for special provisions on associations.

Chapter Three

The Right to Form Networks, Coalitions, Thematic and Regional Federations

Article (27) Associations shall be entitled to establish or join local networks or coalitions which help such in coordinating their activities and support their joint objectives.

Article (28) Any number of associations shall be entitled to create thematic or regional federations between themselves for a limited or unlimited period. The founding agreement of this federation shall specify the statute, regulations, institutions, method of exercising competencies thereof, funding methods, dissolution thereof and termination of same activities. Notification of the creation of this federation shall follow the same method prescribed for notification of associations in the present Law, if the founders wish to enjoy a legal personality.

Article (29) The board of directors of the federation shall notify the administrative

authority of any development taking place in the formation or competence of the federation, and also of the new members adhering thereto or old members having withdrawn therefrom.

Chapter Four Concluding Provisions

Article (30) The administrative authority or any person or entity having interests may be entitled to resort to courts of law to challenge any decision or activity of the general assembly or board of directors of the association. The court of first instance in the jurisdiction of which the association headquarters is situated shall, after examining the request and hearing the defense of the association accompanied by corroborating documents, order either the repudiation or acceptance of the request, including all the ensuing sanctions. The court may incorporate in same ruling an expedited validation, except in the case of ruling for the dissolution of the association or liquidation of funds thereof, the ruling shall not be executed except when it is pronounced finally.

Article (31) Sanctions which may be inflicted on the association by virtue of a court ruling, in case it was proved that the said association contravened the statute and rules prescribed in the present Law include the following:

- 1.Warning the association to rectify the established infraction;
- 2.Annulling the decision or suspending the objected activity;
- 3.Freezing the activity of the contravening member or freezing said membership in the board of directors;
- 4.Fully remove the board of directors or some members thereof;
- 5.Freezing the activities of the association for a limited period;
- 6.Dissolving the association and liquidating funds thereof.

Article (32) The court of law shall, in the event of a ruling has been rendered to dissolve the elected board of directors of the association, include in the same ruling the appointment of a member of the general assembly, other than the members of the dissolved board of directors, as a receiver. In case the general assembly was itself the board of directors, the court shall appoint a receiver outside the assembly. The receiver shall be assigned, within a period not exceeding sixty (60) days as of the date upon which the ruling to appoint same became final, to hold new elections pursuant to the statute of the association, and shall have the competences of the chairman of the board of directors to preserve relevant

rights provided that a full report of the activities of the receiver be submitted to the first general assembly meeting for approval.

Article (33) If an association is dissolved, one or more liquidator(s) shall be appointed. The liquidator(s) shall be appointed by the general assembly if the dissolution is voluntary or by the court of law if the dissolution is judicial. In all cases, the rules prescribed in the statute of the association shall be followed with respect to the outcome of liquidation. In case of failure to do such, the decision to appoint a liquidator(s) shall include the assignment of same to transfer the funds of the dissolved association to an association whose objectives are closest to those of the said association.

Article (34) The association shall be entitled to challenge any administrative decision against same and to present the reasons for such challenge to the court of administrative judiciary within whose jurisdiction the headquarters of the association is located. The court shall, after examining the challenge and hearing the defense of both the association and the administrative authority, either order the annulment of the administrative decision or repeal the challenge presented by the said association.

documentary Annexes⁽¹⁾

models for the administrative instructions opposing to the law

⁽¹⁾ - **Annexe I:** A letter from the social solidarity department in AlMenia, to organizations' directors regarding hiring new employees.

- **Annexe II:** A letter from the central department for organizations and unions for the directorate of social affairs in Cairo governorate, regarding regulating rules for organizations' board members traveling abroad; according to the Ministerial decree no. 45 for the year 1972.

- **Annexe III:** a letter from the department of social affairs at the social solidarity directorate in Menia, to organizations' board heads and board of trustees within the geographical territory of AlMenia regarding holding joint activities and meetings with organizations and institutions according to regulations of Ministry of social solidarity.

- **Annexe IV:** A letter from the social solidarity directorate in AlMenia to organizations and institutions regarding allowing and accepting funds.

Annexe I

Annexe II

Annexe III

Annexe IV