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Written statement* submitted by the Egyptian Organization for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Role of Civil Society Organizations (CSOs) in the Arab Region

Despite the dramatic expansion in the role of the CSOs in the AR and the increased dependence of the international community on their reports in documenting the current statuses in the AR particularly on the sustainable development and human rights issues and referring to them as the third-partner in achieving the international developmental plans and shaping global public policy. However the CSOs in the AR still continued to face operational obstacles legally and politically.

Legal context:

The legal structures governing the CSOs in the AR are poorly implemented and administered. Perhaps the most significant legal constraints are:

Cumbersome registration process:

CSOs are legally required to register with their concerned authority which varies according to each Arab country. Therefore, CSOs must be eligible to register under the laws organizing this process. During this process the governments are using a lot of tools to constrain CSOs and in most cases the registration process is unclear and vague; leads to unavoidable delays due to the bureaucratic red tape. Example, in Egypt, the Article 75/2014 stipulated "Citizens have the right to form NGOs and institutions on a democratic basis, which shall acquire legal personality upon notification"¹ but the law on association 84/2002 is inconsistent with the mentioned-above article as the Association law stated that it shall have its own written statute signed by all founders and to possess an appropriate headquarters in Egypt along with 11 documents required to be submitted to CSOs' registration. In Iraq² the CSOs are obliged to present a complex list of documents such as "financial data for the current year and projected budget for the next two years" a list of donors' names and addresses of donors or non-bank lenders of funds to the NGO. Other cases of complex registration's procedures are Jordan and Libya

Curtailment of freedom of the CSOs activities:

In many Arab countries, Governments are classifying CSOs as opposition entities that seeks to overthrow the ruling party accordingly they are trying to control the activities of those organizations and eliminate their contributions instead of taking their reports as a monitoring system especially in the field of human rights the governments rarely accept CSOs reports or consider them to improve HR in Arab Countries. Therefore there are a lot of Administrative interventions in the activities of the CSOs in the AR which restricting their scope of influence. In Egypt³ the law prohibited any CSOs from expand their work into any new "project areas" that were not a part of their original charter or receiving any foreign fund without MOSA permission. In Jordan⁴, the government representative is free to attend the meeting and elections of the NGOs and the CSOs must notify the MOSA of elections 15 days in advance and the minister of MOSA can assign a temporary board of directors to run the NGO and call a new board election in case of any violation to the provisions of law during the observed elections.

Restrictions on funding:

The dilemma of foreign funding to the CSOs in the AR is a persistent obstacle facing those organizations especially after the Arab spring Revolutions as the Arab governments throughout the region become more aggressive and are employing a diverse of toolkit of tactics to discredit NGOs' efforts. The governments also started to formulate GONGOs which stands for the "government organized NGOs" to control and monitor the CSOs' activities. This restriction's policy was followed in Egypt, Palestine and Jordan as the new pass legislation in Egypt stipulates that the ministry of interior should approve the receipt of all foreign funding earmarked for Egyptian NGOs to receive the foreign funds or to reformulate their organizational mandates to suit the funding opportunities while facing the restrictions that may reach

¹ Egyptian Constitution: Art.75, Section .III, part. 1

² CPA Order45 (Iraq): Section 2

³ Ministry of Insurance and Social Affairs Decree 178 / 2002 (Egypt): Art. 48; Law 84 / 2002 (Egypt): Arts. 16-17

⁴ Law No. 33/1966 (Jordan): Article 18.

closing/downsizing. The Arab countries are trying to control CSOs by restricting their funding to the auspices of ministries of interior as in Lebanon, Jordan and Palestine.

The custodial penalties in the laws on Associations in The AR:

The custodial penalties is considered as a direct tool used by the Arab governments to intimidate and terrify the CSOs' personnel and staff and to prevent their participation in the democratization process which contradicting with the international legislations considering CSOs' violations as an administrative offenses that don't rise to the level of legal crimes or desolation of the CSOs as in Algeria the desolation of the CSOs are based on a judicial order which depends on the MOI⁵ and in Egypt the MOSA can dissolve any CSOs under the condition of threatening the national unity⁶ and the Egyptian vague law on CSOs enables the government to charge, arbitrary, the CSO activists with a custodial penalties and fine up to 10,000 EGP and Iraq is facing more restrictive condition as any CSOs can be suspended in case of any violations to law and without measuring severity of violations⁷. In Jordan the law on association allows the dissolution according to the personnel judgments of the ministry of social Development officials without appeals and courts could charge any person violates the law with a penalty up to 3 months in prison or a fine of 50 Jordanian dinars for any violation⁸.

Political context:

CSOs in AR are encountering complex obstacles of policies of harassment and intimidation, and reprisals followed by the Arab governments to constrain the freedom and independence of the CSOs. There are 2 main political factors restricting the CSOs in AR:

Militarization:

Militarization comes in many forms in the Arab countries and the security threats rising from those forms such as internal conflicts, war on terror and occupation are sharply affecting the capacities and the role of civil society. The Arab states used the pretext of threat by "external enemy" to create a culture of fear and restrict citizens' rights. The Arab governments used the policies of most of the countries worldwide to encounter terrorism to put more restrictions on the CSOs such as controlling the foreign funding support such as in Egypt⁹. The Occupation is a restrictive tool to the CSOs in Arab countries especially in Palestine as the Israeli occupation impedes the humanitarian and development programs by controlling and attacking the CSOs through the new bill¹⁰ in Israel which restricts the Israeli CSOs which are documenting the violations of human rights committed by the Israeli settlers against the peaceful Palestinians. Civil war as a form of Militarization examples of Syria and Yemen¹¹ as Houthi authorities forced dozens of CSOs to close in October 2015. Organizations working to document human rights abuses or focused on other rights-related or political issues have faced the risk of arbitrary closure and dissolution and were restricted from receiving foreign funding due to the policy followed in the AR of portraying the west and the INGOs as a western devil which seeks to spy on the AR through CSOs.

Level of democracy:

Although supporting the democratization process is one of the main focus areas of the CSOs in the AR, the lack of democracy is considered to be a complex obstacle restricts the CSOs activities which is reflected in the low degree of transparency and participation in the decision making process plus a complete disregard to the role of CSOs in reinforcing democracy in some countries and establish democracy in other countries such as Saudi Arabia where votes for democratization and opposition of the established governments were repressed. The lack of democracy is combined

⁵ Act 90-31 (Algeria): Article. 32-38

⁶ Law 84/2002 (Egypt): Art. 11(2), Art.6/42

⁷ CPA Order45 (Iraq): Section: 1/6.

⁸ Law No. 33/1966 (Jordan)

⁹ James Traub, The Arab War on Terror, sep22, 2014, par 11.

¹⁰ Ruth Eglash and William Booth, Israeli NGOs decry 'deeply anti-democratic move' as new law approved, The Washington post, Jul14, par 5.

¹¹ Ghazi Al Samey, NGO Law Monitor: Yemen, ICNL, March14, 2016.
<http://www.icnl.org/research/monitor/yemen.html>.

with lack of Awareness and technological acknowledgments that's all resulted in a low degree of participation in CSOs' Activities and diminishing openness to the international community.

Recommendations:

- 1- Lobbying for the creation of an appropriate legal framework.
 - 2- Strengthening the exchange between the donors and beneficiaries as a way of reducing the financial obstacles.
 - 3- Short-term project funding with long term strategies on CSOs Capacity-building.
 - 4- Encouragement of increasing the number of CSOs in Arab countries (Saudi Arabia)
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