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GLOBAL TRENDS IN NGO LAW

A quarterly review of NGO legal trends around the world

No system of government can or should be imposed upon one nation by any other. That does not lessen my commitment, however, to governments that reflect the will of the people. Each nation gives life to this principle in its own way, grounded in the traditions of its own people. America does not presume to know what is best for everyone... But I do have an unyielding belief that all people yearn for certain things: the ability to speak your mind and have a say in how you are governed; confidence in the rule of law and the equal administration of justice; government that is transparent and doesn't steal from the people; the freedom to live as you choose. Those are not just American ideas; they are human rights. And that is why we will support them everywhere.

- President Barack Obama, "Remarks by the President on a New Beginning," Cairo University, Cairo, Egypt (June 4, 2009)

Introduction: Civil Society and Development in the Arab World

When President Barak Obama delivered his now-famous address to the Muslim world in June of 2009, many in the Arab world welcomed the message of hope and "a new beginning." President Obama's call for freedom and political and civil rights echoed the statements of Arab reformers and human rights advocates, who have long called for a broad international and regional commitment to Arab political reform. In the words of the influential Cairo Institute for Human Rights Studies' *Annual Report on Human Rights in the Arab Region*, "human rights claims should be given priority over more narrow demands for political participation and the reform of electoral systems... demands linked to freedom of expression should be given special priority, particularly the right to independent organization, whether political parties, trade unions and professional syndicates, or NGOs."¹

Indeed, in recent years the significance of civil society, protection of basic freedoms for civil society, and their relationship to economic development have been acknowledged at the highest levels of Arab governments. One year prior to President Obama's address, King Abdullah II of Jordan gave a speech explaining that "basic freedoms for citizens and civil society organizations... are major requirements for realizing comprehensive development, [and] this cannot be realized except in an environment governed by the values of freedom, pluralism, tolerance, respect for others' opinions, the rule of law and equal

¹ Cairo Institute for Human Rights Studies, *Bastion of Impunity, Mirage of Reform: Human Rights in the Arab Region Annual Report 2009*, p. 30, available online at <http://www.cihrs.org/Images/ArticleFiles/Original/510.pdf>.

opportunities.”² Similarly, Lebanon’s President Michel Sulayman has spoken of civil society as “a force that provides suggestions and support for the efforts of the state,”³ and Arab League Secretary General Amr Moussa commented in 2009 that steps were being taken to “provide a chance to the private sector and civil society to participate in the economic and social development process.”⁴

While these statements recognize the importance of civil society, and thus offer the promise of change, few Arab governments have taken the steps necessary to provide for a more enabling environment for NGOs by revising the laws governing their activities. The NGO laws of most Middle East / North Africa (MENA) countries remain extremely restrictive. With very few exceptions – most prominently, Lebanon, Morocco, Palestine, and with the passage of new legislation in 2010, Iraq – most Arab governments have adopted NGO laws that constrain the formation and operation of NGOs and afford significant discretion to government officials in their oversight of them, thereby preventing NGOs from playing a role as full partners for social and economic development. Nonetheless, there have been new initiatives to revise the NGO laws in a number of countries, in some cases offering the prospect of improvement.

In light of the continuing international interest in the MENA region, and the multiple existing and anticipated initiatives to revise or replace NGO laws, ICNL focuses this issue of *Global Trends* on the NGO laws of the Arab world. We begin with a brief history of the development of NGO laws in the region. Section II considers the current status of NGO laws in the MENA countries. Section III reviews the most recent initiatives to revise the region’s NGO laws.

I. The Long Shadow of Egypt’s NGO Law

As Arab nations gained their independence in the 1950s and 1960s, many moved to follow the example of Egypt – the first Arab nation to gain its independence – and its charismatic leader, Gamal Abdel Nasser. Nasser, who ruled Egypt from 1954 until his death in 1970, was one of the most important figures in modern Arab history, and his socialist pan-Arab ideology was enormously influential across the MENA region.⁵ Under Nasser’s rule, Egypt adopted the MENA region’s first post-independence NGO law, the *Law on Private Associations and Foundations* (Law 32 of 1964). A product of its time, Law 32 of 1964 reflected the subordination of independent civil society to what was seen as the higher Arab socialist interest, and “neither open political opposition nor an independent sector existed in Egypt during this

² His Majesty King Abdullah II, “Remarks by His Majesty King Abdullah II on the Occasion of Jordan’s 62nd Independence Day,” Amman Jordan (May 25, 2008), available online at: <http://www.jordanembassyus.org/new/jib/speeches/hmka/hmka05252008.htm>.

³ BBC Monitoring Middle East - Political, “Lebanese President Holds News Conference, Concludes Visit to France,” (March 21, 2009) (quoting President Michel Sulayman).

⁴ BBC Monitoring Middle East - Political, “Arab Economic Summit in Kuwait Issues Final Statement,” (January 21, 2009) (quoting Secretary General Amr Moussa).

⁵ See, e.g., Tawfig Y, Hasou, *The Struggle for the Arab World: Egypt’s Nasser and the Arab League* (London: 1985).

time.”⁶ NGOs could not be formed without the approval of government officials, whose discretion in registration was unlimited, and the government had the authority to dissolve or combine NGOs or even completely replace their Boards of Directors at any time.⁷ Many of these provisions appear nearly verbatim in subsequently written Arab NGO laws, such as Jordan’s *Law on Societies and Social Bodies* (Law 33 of 1966) and Bahrain’s *Law of Associations, Social and Cultural Clubs, Special Committees Working in the Field of Youth and Sports, and Private Foundations* (Decree 21 of 1989), adopted twenty-five years later.

Arab NGO Law Reforms in the Last Decade

As in the post-independence period, as several Arab countries have moved to amend their NGO laws since the turn of the millennium, Egypt has again led the way. Beginning in 1997, the Egyptian government announced its intention to amend Law 32 of 1964 to “empower volunteer agencies as major partners in the development process.”⁸ Dozens of prominent Egyptian civil society leaders were invited to take part in the drafting of the legislation. However, the bill ultimately approved by the parliament in 1999 diverged so strongly from their expectations and recommendations that they issued a public condemnation of the law three days before its passage and disavowed its contents.⁹ Ultimately, the new Egyptian NGO law – Law 153 of 1999 – was declared unconstitutional by the Egyptian Court of Cassation because of procedural irregularities, but an almost identical version was enacted as Law 84 of 2002 and remains in effect to this day.¹⁰

Law 84 of 2002 (and its 1999 precursor) did away with several negative provisions of Law 32 of 1964. Among other changes, the requirement that NGOs seek government approval before purchasing real estate and the government’s right to unilaterally appoint members of any association’s Board of Directors were both removed.¹¹ However, registration of all groups remained mandatory, and NGOs continued to be subjected to burdensome and discretionary processes, inappropriate government supervision, unnecessarily severe criminal punishments, and improper restrictions on fundraising and activities. In other words, the government attempted to liberalize the NGO framework enough to allow NGOs to engage in government-sanctioned economic and social development programs – but not enough to provide for a truly independent civil society. This same pattern of development would come to characterize subsequent law reform efforts in Palestine and Oman (2000), Yemen (2001), Qatar

⁶ Mohamed Agati, “Undermining Standards of Good Governance: Egypt’s NGO Law and Its Impact on the Transparency and Accountability of CSOs,” *International Journal of Not-for-Profit Law*, Vol. 9, Iss. 2 (April 2007), available online at: http://www.icnl.org/KNOWLEDGE/ijnl/vol9iss2/special_4.htm.

⁷ See Arab Republic of Egypt, Law 32 of 1964, Article 92 (mandatory registration or imprisonment), Article 12 (discretionary registration), Article 57 (discretionary dissolution), Article 29 (discretionary combination), and Article 28 (appointment of temporary Board of Directors).

⁸ Rehab El-Bakry, “The Art of Change,” *Egypt Today* (September 2004), available online at: <http://www.egypttoday.com/article.aspx?ArticleID=2254>.

⁹ Barbara Cochrane Alexander, “Law No. 153: Its Impact on Egyptian Non-Governmental Organizations,” *American University – Washington College of Law Human Rights Brief*, Vol. 7, Iss. 2 (2000), available online at: <http://www.wcl.american.edu/hrbrief/07/2law153.cfm>.

¹⁰ Agati *supra* at note 6.

¹¹ El-Bakry *supra* at note 8.

(2004), Mauritania (2006), and Jordan (2008). All of these countries made positive changes to their NGO framework laws but did not adopt laws that were fully enabling of civil society or consistent with international law and best practices.

The following sections survey the current status of NGO laws across the region.

II. Survey of Arab NGO Laws

As briefly discussed above, most Arab NGO laws share several characteristics. In general, registration of all NGOs is mandatory, and there can be significant barriers to successful registration, including a high minimum number of members or discretionary registration processes. Once registered, NGOs will face substantial and often inappropriate government interference with their internal management and operations. They are also likely to face blanket restrictions on certain types of activities and their ability to raise funds. Registered NGOs will also encounter the possibility of dissolution for minor violations of the law or, in the absence of violations, simply at the personal discretion of a government official. Finally, NGO members must contend with potentially severe criminal punishments, including long jail sentences, for relatively minor violations of the law.

A. Registration

1. Mandatory Registration

The vast majority of nations in the MENA region require associations to register with the government prior to beginning any activities. In fact, most impose criminal penalties on individuals who work for or manage unregistered associations or foundations. Many of the laws do not clearly indicate the types of groups that are required to register, which can subject to penalties individual members who may not realize that they are in violation of the NGO laws. By prohibiting any associational activities – even informal activities, such as a group of neighbors meeting weekly to discuss political events – without prior registration, these laws clearly infringe upon the right to free association protected by the *International Covenant on Civil and Political Rights* and other conventions.

In one recent high-profile example, Mohammed al-Maskati, founder of the Bahrain Youth Society for Human Rights, was jailed in September 2009 for operating the society without a license from the Bahraini government. As of this writing, his case continues; if found guilty, Mr. al-Maskati faces up to six months' imprisonment.¹²

Registration is mandatory in Jordan,¹³ Kuwait,¹⁴ Libya,¹⁵ Sudan,¹⁶ the United Arab Emirates,¹⁷ and several other MENA countries.

¹² See, e.g., Bahrain Youth Society for Human Rights, "Mohammed Al-Maskati, President of BYSHR on Trial Once Again" (September 2, 2009), available online at: <http://byshr.org/?p=170#more-170>.

¹³ Hashemite Kingdom of Jordan, Law 51 of 2008 (as amended), Article 6.

¹⁴ State of Kuwait, Law 24 of 1962, Articles 2 and 3.

2. Large Number of Founders

In many countries of the MENA region, should a group attempt to register, it will confront a process that is burdensome and subject to broad ministerial discretion. For example, many MENA countries require a large number of founders before an association may be formed. Egypt¹⁸ and Bahrain¹⁹ each require 10 members, the United Arab Emirates²⁰ and Qatar²¹ require 20, and Yemen²² requires 21 at the time of application and 41 at the time of the first meeting. Sudan requires 30 members in order for an association to be successful in its application for registration.²³ Requiring such a large group acts as a substantial barrier for groups with less popular causes. By contrast, Tunisia requires only 2 founders²⁴ and Palestine requires 3,²⁵ numbers that facilitate formation and registration of associations.

3. Broad Government Discretion

Registration provisions in many MENA countries include vague language and sweeping grants of power to the relevant ministries, allowing government employees broad discretion when reviewing registration applications from would-be associations.

- According to **Jordan's Law on Societies** (Law 51 of 2008 as amended in 2009), applications for registration of new societies are sent to an independent Board of Registration chaired by the Ministry of Social Development.²⁶ The Board is permitted to reject an application for any reason, though it must issue a written justification for its decision.²⁷
- NGOs operating in **Bahrain** are subject to the Decree 21 of 1989 (as amended in 2002). Under this law, different government agencies handle the registration of NGOs depending on the NGO's planned activities.²⁸ The law allows the government to reject an application, among other reasons, simply because it considers the association to be unnecessary or redundant.²⁹ NGOs then have the option to appeal the rejection, but given the lack of criteria for the government's authority to reject applications, it is unclear on what basis a court could strike down a rejection.

¹⁵ Great Socialist People's Libyan Arab Jamahiriya, Law 111 of 1970, Article 8.

¹⁶ Republic of the Sudan, *Law on Regulating Voluntary and Humanitarian Work of 2006*, Article 8(1).

¹⁷ United Arab Emirates, Federal Law 2 of 2008, Article 54.

¹⁸ The Arab Republic of Egypt, Law 84 of 2002, Article 2.

¹⁹ Kingdom of Bahrain, Law 21 of 1989, Article 4.

²⁰ United Arab Emirates, Federal Law No. 2 of 2000, Article 3. The Minister of Social Affairs may grant an exemption for this requirement. The minimum of members required is 5.

²¹ State of Qatar, Law of Associations, Article 1.

²² Republic of Yemen, Law No. 1 of 2001, Article 2.

²³ Republic of Sudan, *Law on Regulating Voluntary and Humanitarian Work of 2006*, Article 9-1. An association may be exempted from this requirement if it can prove that it can be financially stable with fewer members; see Article 9-2.

²⁴ Tunisian Republic Law 154 of 1959, Article 1.

²⁵ Palestine Law No. 1 of 2000, Article 5.

²⁶ Hashemite Kingdom of Jordan, Law 51 of 2008 (as amended), Article 4.

²⁷ *Id.* at Article 11.

²⁸ Kingdom of Bahrain, Law 21 of 1989, Introduction.

²⁹ *Id.* at Article 11.

- Applications for registration in **Tunisia** are submitted to the Minister of Interior. The Minister is free to make his or her decisions regarding the application without providing justification.³⁰

In some cases, a country's NGO laws may provide criteria on which the government is to base its decision to register or dissolve an NGO, but these criteria are so broad that they do little to constrain the government's exercise of discretion.

- The **Algerian Associations Act** (Law 31-90 of 1990) deems an association to be void if it "was founded for a purpose contrary to the established institutional system or to public order, public decency or the law and regulations in force."³¹
- In **Egypt**, associations are prohibited from having objectives that "[threaten] national unity or [breach] public order, [or] morals..."³²
- The **Moroccan Decree Regulating the Right of Association** (Decree 1-58-376 of 1958 as amended by Decree 2-04-969 of 2005) prohibits associations from engaging in activities that "breach the laws or public morals; offend Islam, national unity, or the royal system; or incite discrimination."³³
- The Ministry of Social Affairs and Labor in **Oman** has the right to prevent an association from registering if it finds that the services to be provided by the association are not needed, or if there are other associations that are already meeting the need that would be filled by the new NGO.³⁴ The Ministry may also reject an application for "any other reasons according to the decision of the Ministry."³⁵

B. Government Supervision

In many MENA countries, organizations that have been successful in their applications for registration may be subject to significant government supervision. Governments may maintain control by attending associations' meetings, deterring the discussion of opinions and issues inconsistent with a government position. The government may also retain authority over the selection of board members. By partly controlling an organization's board, which acts as the decision-making authority for the organization, the government is able to ensure that it will have some say in all major decisions affecting the organization. In addition, many countries in the MENA region require associations to obtain government approval prior to entering into any foreign affiliation.

³⁰ *Id.*

³¹ People's Democratic Republic of Algeria, Law 90-31 of 1990, Article 5.

³² The Arab Republic of Egypt, Law 84 of 2002, Article 11.

³³ Kingdom of Morocco, Law 1-58-376 (as amended by 1-09-39), Article 3.

³⁴ Sultanate of Oman, Law No. 14 of 2000, Article 11.

³⁵ *Id.*

1. Meeting Attendance

- Under Article 26 of Law 84 of 2002, associations in **Egypt** are required to inform the Ministry of Social Solidarity and the General Federation of Associations and Foundations³⁶ of any upcoming general assembly meeting. The notification of the date of the meeting must include the agenda for the meeting. The General Federation is permitted to send a representative to the meeting, and following the meeting, the minutes must be sent to the Minister of Social Solidarity.
- In the **United Arab Emirates**, the Minister of Social Affairs, in addition to exercising broad powers of supervision generally, may send a representative to all general assembly meetings of an association.³⁷
- NGOs in **Jordan** must inform the Controller of the Registry of Societies and the “Relevant Minister” assigned at the time of their registration of any general assembly meeting at least 15 days prior to the meeting.³⁸ Both the Controller and the Minister may elect to send a representative to the general assembly meeting. If an association fails to provide notice of the meeting, it is deemed illegal.

2. Board of Directors Interference

- The Ministry of Social Development and Labor in **Syria** is authorized to appoint members to the Board of Directors of any association.³⁹ It can also set the minimum and maximum number of individuals that may belong to an association’s Board.⁴⁰ Finally, the Ministry has the power to exclude a director from the Board in the interest of “national considerations.”⁴¹
- Under Article 34 of the Law 84 of 2002, the **Egyptian** government requires that associations submit a list of the names of all candidates for positions on their boards of directors to the Ministry of Social Solidarity at least 60 days prior to the election. The administrative authority may then require an individual to be removed from the list of nominees for “not fulfilling the nomination requirements” – though such “requirements” are not specified anywhere in the law itself.⁴² If an individual’s nomination is not withdrawn after an administrative authority request, the government may initiate a judicial proceeding that will prevent any election from taking place until a “competent court” issues a decision on the legality of the nominee – a process that can take months if not years to complete.⁴³

³⁶ See the Arab Republic of Egypt, Law 84 of 2002, Article 69. The General Federation of Associations and Foundations is a quasi-governmental organization tasked with setting a vision for the role of NGOs, carrying out studies, and organizing the technical, administrative, and training programs for NGOs’ employees. 19 of the 30 members are elected by associations and foundations that are members, and 11, including the powerful office of President of the Federation, are appointed directly by Egyptian President Hosni Mubarak.

³⁷ United Arab Emirates, Federal Law 2 of 2008, Article 27.

³⁸ Hashemite Kingdom of Jordan, Law 51 of 2008 (as amended), Article 14.

³⁹ Syrian Arab Republic, Law No. of 1956, Article 26.

⁴⁰ *Id.*

⁴¹ *Id.* at Article 67

⁴² The Arab Republic of Egypt, Law 84 of 2002, Article 34.

⁴³ *Id.*

3. Prohibition on Affiliations

- Article 21 of the **Algerian Law 31-90 of 1990** dictates that foreign associations may only be formed after receiving prior approval from the Minister of Interior. The right to form foreign associations is limited to Algerian associations whose objectives are the same as the foreign association.⁴⁴
- In **Morocco**, an organization must obtain government permission in the form of a decree before it may enter into any foreign affiliation.⁴⁵
- Similarly, an association operating in **Oman** must obtain approval from the Minister of Social Affairs and Labor in order to join any foreign affiliation or club.⁴⁶

C. Restrictions on Activities

Laws prohibiting NGOs from participating in political activities are regularly implemented in the MENA region. Often, these laws do not define the term “political activities,” thereby potentially granting administrative agencies the ability to prohibit a wide range of activities, potentially barring NGOs from participating in public policy debates. Many countries also include provisions specifically banning other types of activities.

1. Political Activities

- Law 31-90 of 1990 prohibits **Algerian** NGOs from participating in any political activities.⁴⁷ It also prohibits associations from having any contacts with a political body or accepting funds from any entity with a political nature.⁴⁸ Foreign associations are not immune from such bans; in September 2008, for example, the Friedrich Ebert Foundation, present in Algeria since 2002, was forced “to announce the suspension of its activities in Algeria” after being accused of creating “opposition spaces” with its ‘Ramadan Nights’ program of events.⁴⁹ The organization has not held any events since.⁵⁰
- Similarly, NGOs are prohibited from engaging in political activities in **Syria**.⁵¹
- **Kuwaiti** NGO laws ban NGOs from “interfering with politics and religious conflicts.”⁵²
- Associations in **Qatar** are prohibited from becoming “involved in political issues.”⁵³

⁴⁴ For a more in depth analysis of the Algerian NGO legal system including a discussion of the effects the restrictions on foreign associations has had on the number of foreign associations registered in Algeria, see Chafika Kahina Bouagache, “The Algerian Law on Associations within its Historical Context,” *International Journal of Not-for-Profit Law*, Vol. 9, Iss. 2 (April 2007), available online at http://www.icnl.org/knowledge/ijnl/vol9iss2/special_3.htm.

⁴⁵ Kingdom of Morocco, Law 1-58-376 (as amended by 1-09-39), Article 26.

⁴⁶ Sultanate of Oman, Law No. 14 of 2000, Article 5.

⁴⁷ People’s Democratic Republic of Algeria, Law 90-31 of 1990, Article 11.

⁴⁸ *Id.*

⁴⁹ Euro-Mediterranean Human Rights Network, “Freedom of Association in the Euro-Mediterranean Region,” (2009), p. 19.

⁵⁰ *Id.*

⁵¹ Syrian Arab Republic, Law No. of 1956, Article 36.

⁵² State of Kuwait, Law 24 of 1962, Article 6.

2. Additional Restrictions

- In **Oman**, an association may not “interfere in religious issues” or “hold public festivals or public lectures without obtaining a prior permission from the Ministry.”⁵⁴
- In addition to prohibitions on political activities, NGOs in **Bahrain** are banned from entering into any speculative activities.⁵⁵ They are also unable to obtain real estate without first receiving permission from the competent authority.⁵⁶
- In addition to being prohibited from “interfer[ing] in politics or in matters that impair the State, its security, or its ruling regime,”⁵⁷ NGOs in the **United Arab Emirates** cannot participate in “conferences, forums, assemblies or meetings outside the State” without receiving permission from the Ministry of Social Affairs.⁵⁸ Similarly, an association must receive approval from the Ministry prior to holding “conferences, forums, meetings, or events attended by foreigners.”⁵⁹

D. Restrictions on Fundraising

Many nations in the MENA region require associations to obtain prior approval, often but not always in the form of a license, before any fundraising activities can be implemented. Although the requirement to obtain a license may not be problematic on its own, the time constraints associated with obtaining a license may cause difficulties. For example, requiring multiple applications for fundraising licenses each year may create burdensome and expensive administrative processes for smaller NGOs. Also, if an association is only permitted to raise funds once a year its activities may be crippled due to insufficient funds.

- In **Bahrain**, to obtain a license to raise funds, an NGO must disclose how the money will be collected, how it will be spent, and the name of the bank and the account where the money will be deposited.⁶⁰ Once the license is obtained, it is only good for two months.⁶¹
- In **Kuwait**, associations are only permitted to collect funds once each year after first receiving a license from the government.⁶²
- In **Egypt**, NGOs may not accept funds from a foreign source or send funds abroad without permission from the Ministry of Social Solidarity.⁶³ Government permission is also required for an NGO to receive foreign funding in Algeria,⁶⁴ Jordan,⁶⁵ Syria,⁶⁶ and Sudan,⁶⁷ among others.

⁵³ State of Qatar, Law of Associations, Article 35.

⁵⁴ Sultanate of Oman, Law No. 14 of 2000, Article 5.

⁵⁵ Kingdom of Bahrain, Law 21 of 1989, Articles 18 and 63.

⁵⁶ *Id.* at Article 7. Social welfare and cultural societies are exempt from this limitation.

⁵⁷ United Arab Emirates, Federal Law 2 of 2008, Article 16.

⁵⁸ *Id.* at Article 17.

⁵⁹ *Id.* at Article 18.

⁶⁰ Kingdom of Bahrain, Degree No. 27 of 2006, Article 4.

⁶¹ *Id.*

⁶² State of Kuwait, Law 24 of 1962, Article 22.

⁶³ The Arab Republic of Egypt, Law 84 of 2002, Article 76.

⁶⁴ People's Democratic Republic of Algeria, Law 90-31 of 1990, Article 29.

⁶⁵ Hashemite Kingdom of Jordan, Law 51 of 2008 (as amended), Article 9.

E. Involuntary Dissolution

Governments may also exercise a significant degree of control over associations through the threat of liquidation or dissolution. Often, the legal provisions pertaining to liquidation or dissolution contain broad language, which again grants the administrative authority a great degree of discretion when making decisions.

- The Ministry of Social Development in **Syria** is able to liquidate an NGO based solely upon its opinion that the NGO is not necessary.⁶⁸
- In **Mauritania**, the Ministry of Interior may dissolve an association if it “conducts propaganda offending the state” or if the association “violate(s) the state’s credibility,” among other reasons.⁶⁹
- In **Oman**, an association may be dissolved if the Ministry of Social Affairs and Labor determines that it has violated public “norms.”⁷⁰

F. Criminal Punishments

As previously mentioned, many countries impose criminal penalties on individuals who work with or for an association that is not registered with the government. When these penalties are coupled with laws that do not clearly define what groups are required to register, individuals may unknowingly act in ways that subject them to criminal penalty. In addition, the imposition of severe criminal penalties for minor violations of the law may act as a deterrent to the associational activities of individuals and organizations.

- Any individual who manages or works for an unregistered **Algerian** association may be punished with a prison sentence of three months to two years and a fine of 50,000-100,000 Algerian Dinars.⁷¹
- Individuals who manage an unlicensed association in **Mauritania** may be imprisoned for a period of 1-3 years and fined MRO 3,000-450,000. Individuals working for an unregistered association may be sentenced to one year in prison and be required to pay a fine of MRO 270,000.⁷²
- In **Egypt**, a punishment of up to one year in prison and a fine of LE 2,000-10,000 may be imposed on individuals who form an NGO without proper registration. In addition, any individual who conducts activities on behalf of an association before registration is complete may be punished with 3 months in prison and a fine of LE 1,000.⁷³

⁶⁶ Syrian Arab Republic, Executive Statute 1330 of 1958.

⁶⁷ Republic of the Sudan, Law on Regulating Voluntary and Humanitarian Work of 2006, Article 7.

⁶⁸ Syrian Arab Republic, Law No. 328 of 1956, Article 36.

⁶⁹ Islamic Republic of Mauritania, Law No. 98-64 of 1964, Article 13.

⁷⁰ Sultanate of Oman, Law No. 14 of 2000, Article 47.

⁷¹ People’s Democratic Republic of Algeria, Law 90-31 of 1990, Article 45.

⁷² Islamic Republic of Mauritania, Law No. 98-64 of 1964, Article 8.

⁷³ The Arab Republic of Egypt, Law 84 of 2002, Article 76.

- A penalty of imprisonment up to five years and a fine of between TD 10-100 may be imposed on any individual who works for an unregistered association in **Tunisia**.⁷⁴ If an individual manages an unregistered association he or she may be penalized with imprisonment of five months to three years and a fine of TD 10-50.⁷⁵

III. Conclusion: New and Ongoing NGO Law Initiatives

As the preceding pages demonstrate, NGOs operating in much of the Arab world face significant and continuing regulatory and legal barriers to their work. However, though the pace of change is slow, and there are some setbacks, some countries have experienced an incremental liberalization of the environment for civil society. Perhaps most importantly, with positive amendments to the NGO laws of Morocco in 2002 and 2005, Lebanon in 2006, and Iraq in 2010, the Arab region has domestic models for enabling framework legislation on civil society law.

The recent passage of *Iraq's Law on Non-Governmental Organizations* is one of the few clear success stories on NGO law reform in the Arab world in recent years.⁷⁶ Along with Morocco, Lebanon, and Palestine, it is one of the only NGO laws in the region that does not mandate registration of all NGOs. The process of registering a new NGO, while not perfect, is clear and free of inappropriate discretion for government officials. Applications for registration may only be rejected for failure to comply with the NGO law itself, and any rejected NGO may appeal directly to an independent Court of Appeals.⁷⁷ There are no restrictions on foreign affiliations or domestic or international fundraising,⁷⁸ and NGOs are not hampered by unnecessarily burdensome reporting requirements.⁷⁹ It will now be significant for NGOs to seek implementation of the Law that is consistent with its enabling intent.

Other new and ongoing NGO law initiatives are now underway in at least seven MENA countries, though these initiatives will likely yield mixed results.⁸⁰

⁷⁴ Tunisian Republic Law no. 154 of 1959, Article 22.

⁷⁵ *Id.*

⁷⁶ For more information, see International Center for Not-for-Profit Law, "News & Information: Iraqi Council of Representatives Approves New *Law on Non-Governmental Organizations*" (January 25, 2010), available online at <http://www.icnl.org/knowledge/news/2010/01-25.htm>.

⁷⁷ Republic of Iraq, *Law on Non-Governmental Organizations*, Article 8.

⁷⁸ Republic of Iraq, *Law on Non-Governmental Organizations*, Article 22.

⁷⁹ Republic of Iraq, *Law on Non-Governmental Organizations*, Article 15.

⁸⁰ New NGO initiatives are not confined solely to the Arab countries of the MENA region. In Israel, the Knesset Law Committee has proposed a new bill to "increase transparency and repair loopholes in legislation in relation to the financing of political activity by foreign political entities." The bill will require Israeli NGOs "to declare in all public appearances that they receive funding from foreign political entities," if applicable, and to disclose organizational goals and the name, address and ID number all of the organization activists. Opponents of the bill argue that sufficient transparency requirements are already in place and that the true purpose of this bill is to restrict civil society, especially organizations that criticize the Israeli government; proponents argue that the bill will not restrict NGO freedom. For more information, see Tzvi Ben Gedalyahu, "Knesset Panel Approves 'NGO Transparency Bill,'" *Arutz Seva - Israel National News* (February 15, 2010), available online at <http://www.israelnationalnews.com/News/News.aspx/136021>; and Tobias Buck, "Israeli rights groups complain

- **Algeria.** The Minister of Interior and Local Collectivities, Yazid Zerhouni, announced in June 2008 that he would seek amendments to the Algerian *Law on Associations*. However, as of this writing, there is “no public debate on the issue... and no official information on potential amendments,” and as such most civil society leaders fear that any proposed amendments will further restrict the sector.⁸¹
- **Bahrain.** Beginning in 2007, the Ministry of Social Development announced that it would amend the 1989 NGO law and engaged in several rounds of public consultations with Bahraini and international organizations as it prepared a draft law. The law reform process stalled in mid-2008, but on September 7, 2009, the Bahraini newspaper *Al-Wasat* reported that a draft had been approved by the Council of Ministers and sent to the parliament for its consideration. As of this writing no Council of Ministers-approved draft has yet been formally made public.⁸²
- **Egypt.** Since mid-2008, the Egyptian Minister of Social Solidarity and various government officials have confirmed that the Egyptian government will amend Law 84 of 2002. While a draft bill is expected to be introduced in parliament this year, the government has so far refused to make the text of the law available for public review or comment. Among other rumored changes, the General Federation of Associations and Foundations is expected to be assigned a supervisory role, in addition to that of the Ministry of Social Solidarity, in approving or denying registration and foreign funding applications, potentially adding yet another layer of government supervision. Egyptian civil society leaders, fearing that the new law will further restrict the sector, have been and are continuing to mount an advocacy campaign against adoption of any new amendments.⁸³
- **Kuwait.** According to a report of the newspaper *Al Qabas*, a new draft civil society law is being considered by the parliamentary committee on health, social, and labor issues. No draft has been made available to the public, and at this time it is unclear what the effect of the proposed bill may be.⁸⁴
- **Libya.** A panel chaired by the son of the Libyan President, Seif al-Islam Qaddafi, was expected to “propose a law permitting the creation of non-governmental organizations” in January 2010. However, recent statements by President Qaddafi stating that civil society “is a bourgeois culture and an imitation of the West” have cast doubt on whether or not the draft law will be announced. The situation remains unclear as of this writing.⁸⁵

of a crackdown,” *Financial Times - Middle East* (February 13, 2010), available online at <http://www.ft.com/cms/s/0/c4b2356a-183b-11df-9256-00144feab49a.html>.

⁸¹ Euro-Mediterranean Human Rights Network, *supra* at note 65, p. 15.

⁸² “Al-Wasat Publishes the New Law on Organizations: Violating the ‘Triple Security System’ will Result in Prohibition of Associations,” *Al-Wasat*, Iss. 2558, (September 7, 2009).

⁸³ See Dina Guirguis, “NGO Bill Imperils Civil Society Funding,” *Arab Reform Bulletin* (February 3, 2009), available online at <http://www.carnegieendowment.org/arb/?fa=show&article=22697>.

⁸⁴ “‘Health [Committee]’ Completes Three Laws,” *Al-Qabas*, Iss. 145, 17 February 2010, available online at <http://www.alqabas.com.kw/Article.aspx?id=578343&date=17022010>.

⁸⁵ Agence France-Press, “Kadhafi says Libya no place for ‘civil society,’” January 28, 2010, available online at: <http://www.google.com/hostednews/afp/article/ALeqM5iHN4BDASgALw7xKVBGxPDjZKqvjg>.

- **Saudi Arabia.** A draft *Law on Associations and Foundations* that would establish, for the first time, a legal framework for NGOs in Saudi Arabia was approved by the Shura Council in December 2007 and currently awaits the approval and adoption of the King. While many provisions of this law are consistent with international best practices, the draft law gives wide discretionary authority to government officials in the regulation of NGOs. The current status of the law is unclear.
- **Yemen.** The Ministry of Labor and Social Affairs has made public draft amendments to the *Law on Associations and Foundations* that would represent a significant degradation in the status of NGOs in that country. Among other things, the proposed law would require NGOs to seek prior approval before receiving funds from abroad, conducting public fundraising at home, or publishing any public media statements. It would also raise the minimum number of founders required for registration of new NGOs and require re-registration of NGOs every two years. International and domestic NGOs are mounting a robust campaign to defeat or improve the proposed amendments, and this campaign is ongoing as of this writing.

The outcome of these initiatives remains unclear. However, as strengthening and increasingly assertive calls for reform by Arab and international human rights defenders and their allies make clear, there is a need for a more progressive legal and regulatory environment for NGOs in the Arab world. The words of Arab leaders have been in some cases encouraging, but if the changes they promise are to become a reality, concrete steps towards more enabling laws for NGOs will be required.