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**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association,
and the Special Rapporteur on the situation of human rights defenders.**

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the increasing climate of stigmatisation and harassment against civil society organisations** as well as the on-going difficulties for NGOs to operate within the context of the **provisions contained in the Non-Governmental Organizations (NGO) law 84/2002** of the Arab Republic of Egypt.

According to the information received:

On 23 July 2011, the Supreme Council of the Armed Forces (SCAF) issued communiqué no. 69 allegedly accusing the April 6th Youth Movement of attempting to drive a wedge between the people and the army, and of implementing a special agenda with the objective to sow strife. Reportedly communiqué no. 70 which was issued on the same day called on the Egyptian people to stop all the plots of "agents and malevolent individuals" aimed at creating a rift between the people and the army.

On 24 July 2011, it is reported that in a telephone interview with Al-Jazeera Egypt, the commander of the Central Military Zone and a member of SCAF, accused the April 6th Youth Movement and several other unnamed organizations, allegedly under investigation of attempting to sow strife between the people and the army. In addition, he declared that these groups were making "seditious" demands such as calling for the independence of universities, media reform and the vetting of the judiciary. Furthermore, it is reported that the member of SCAF stated that the April 6th Youth Movement and Kefaya, also known as Egyptian

Movement for Change, were not Egyptian movements and that they had received training and funding from foreign sources with the aim of creating chaos.

It is further reported that the State-owned press have increasingly been used to put pressure on civil society organizations by branding them as foreign agents due to foreign funding that some of them allegedly receive.

In July 2011, the Minister of Planning and International Cooperation made a statement confirming the establishment of a committee to be headed by the Minister of Justice, to investigate direct foreign funding of unlicensed Egyptian and foreign NGOs operating in Egypt.

On 7 August 2011, the Minister of Social Solidarity declared that he had requested the Egyptian Central Bank to keep him informed of all banking transactions regarding accounts held by NGOs, including information relating to withdrawal and deposits.

It is alleged that to reveal this information is in breach of section four of Law 88/2011 on the Central Bank, Banking System and Money which provides for account confidentiality. In particular articles 97-101 of the aforementioned legislation explicitly state that bank clients' accounts, deposits, trusts, and transactions are confidential and cannot be accessed, and that no information can be provided about them directly or indirectly, except with the written authorisation of the account holder. In addition, article 98 of the same law states that clients' account information may be disclosed pursuant to a court order on the condition that this measure is taken in a criminal or misdemeanour case before the courts where serious evidence suggests a crime has been committed.

On the same day, the State Security Prosecutor announced that he had started a broad investigation into complaints received by the Public Prosecutor from State agencies. He reportedly accused organizations that illegally receive funding from foreign sources of "grand treason, conspiracy against Egypt and carrying out foreign agendas to harm Egyptian national security."

On 14 September 2011, it is further reported that on the occasion of the 27th meeting of the Cabinet of Ministers, it was announced that a report from the Ministry of Justice regarding the foreign funding of unregistered Egyptian and foreign NGOs in the country had been submitted to the Prosecutor.

Concerns are expressed that the allegations described may be a direct attempt to hamper the space for civil society organisations and impede their legitimate work in defence of human rights. Serious concerns are expressed that the statements made by public officials and the media campaign against civil society groups could contribute to a climate of increasing stigmatisation of their work and eventually their potential criminalisation.

Furthermore, it is reported that certain **provisions of the Non-Governmental Organizations (NGO) law 84/2002** continue to be used to hamper the legitimate work of NGOs in the promotion of human rights. More specifically, concerns are expressed regarding various provisions, including:

Registration

Under the current legislation, civil society organisations can only be formed upon the approval of the Ministry of Social Solidarity. It is further stipulated that if within 60 days the administrative authority finds that any of the association's purposes include an activity prohibited under article 11 of the NGO law 84/2002 "it must reject the application with cause and inform a representative of the founding group by registered mail."

Furthermore, article 8 stipulates that the administrative authority may object to perceived violations of the law in the association's articles of incorporation or in relation to the founders. It seems that if the administrative body has any objection within the period determined by the administrative body, the dispute shall be referred to one of the committees established under Article 7 of the Law 84/2002.

Membership

It is reported that the law also gives the Ministry of Social Solidarity and the security apparatus the right to object to board elections within civil society organisations and to disqualify candidates for the board (art. 34).

It is further reported that in the case where the association issues a decision that the administrative authority regards to be in violation of the law or its articles of incorporation, this authority may ask the association to withdraw the decision (art. 23).

Funding

The restrictions on foreign funding under current legislation are reportedly a matter of concern providing that associations may not obtain funds from abroad, nor may they send any such item to persons or organizations abroad except with the permission of the Minister of Social Affairs (art. 17).

The legislation (art. 42) also reportedly provides for the dissolution of NGOs by the Minister of Social Solidarity on vague grounds, including limitations on the receipt of funds from a foreign body, as well as the sending of funds to a foreign body.

Concerns are expressed about burdensome registration requirements contained in the Non-Governmental Organizations (NGO) law 84/2002 that restrict the right to freedom of association. Serious concerns are expressed due to the allegations received

indicating that the restrictions to receive foreign funding may limit the independence and effectiveness of civil society organisations. Finally, concerns are also expressed about interference in the internal management of civil society organisations.

In connection with the allegations and concerns expressed above, we would like to highlight the various international instruments that recognize the right to freedom of association, in particular article 22 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations; and

- article 13, (b) and (c) which stipulate that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means.

We deem it also pertinent to highlight, inter alia, the following recommendations contained in the report of the Special Rapporteur on the situation of human rights defenders to the General Assembly in 2009 (A/64/226, paras 101-127):

- It should be permissible for individuals to join together to engage in lawful activities without having to register as legal entities, in accordance with the provisions of article 22 of the International Covenant on Civil and Political Rights and article 5 of the Declaration of human rights defenders, if they so wish.

- States should ensure that existing laws and regulations are applied in an independent, transparent and less burdensome or lengthy manner in order to avoid restricting the right to freedom of association.

- States should guarantee the right of an association to appeal against any refusal of registration. Effective and prompt recourse against any rejection of application and independent judicial review regarding the decisions of the registration authority is necessary to ensure that the laws governing the registration process are not used as obstacles to the right to freedom of association.

- Registering bodies should be independent from the Government and should include representatives of civil society.

- States should not interfere with the internal management and activities of NGOs.

- Governments must allow access by NGOs to foreign funding, and such access may only be restricted in the interest of transparency, and in compliance with generally applicable foreign exchange and customs laws. Restrictions on foreign funding may limit the independence and effectiveness of NGOs. States should therefore review existing laws in order to facilitate access to funding.

- Vague definitions of terrorism, extremist activities and slander provisions allow for arbitrary application against individuals and associations should be amended. The use of slander laws and other provisions by Government officials to sanction critical statements and reports by human rights NGOs should be eliminated.

Moreover, we wish to refer to the recommendations issued within the context of the Universal Periodic Review (UPR) of Egypt in March 2010 and, in particular, recommendations 95.88 and 95.106 concerning amendments to the law 84 of 2002 and the registration process of civil society organizations. More specifically, we would like to make reference to the acceptance made by of Egypt of the abovementioned recommendations to ensure a registration process that is transparent, non-discriminatory, expeditious, affordable and not subject to administrative discretion. We would also like to make reference to the acceptance made by Egypt of recommendation 95.38: “NGOs should be consulted widely and have a substantive role in drafting the new NGO law”. We would finally like to make reference to the acceptance of the objective envisaged in recommendation 22 (contained in A/HRC/14/17/Add.1) “in seeking to ensure that NGO activities are not inhibited”.

We urge your Excellency’s Government to take all necessary measures to guarantee that the right to freedom of association is upheld, and to ensure a safe and conducive environment for civil society organizations, in the context of the upcoming parliamentary elections.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to

report on these cases to the Human Rights Council, we would appreciate a response to each of the points raised in the present letter within sixty days. We undertake to ensure that your Excellency's Government's response is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders